

STATE OF HAWAI'I
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Forestry and Wildlife
Honolulu, Hawai'i 96813

December 12, 2014

Chairperson and Members
Board of Land and Natural Resources
State of Hawai'i
Honolulu, Hawai'i

Land Board Members:

SUBJECT: REQUEST FOR FINAL APPROVAL TO ADOPT AMENDMENTS TO HAWAI'I ADMINISTRATIVE RULES TITLE 13 SUBTITLE 5 PART 2 CHAPTER 124 "INDIGENOUS WILDLIFE, ENDANGERED AND THREATENED WILDLIFE, AND INTRODUCED WILD BIRDS" AS FOLLOWS:

- a. AMEND TITLE OF CHAPTER AND SUBCHAPTERS TO INCLUDE "INTRODUCED WILDLIFE;"
- b. RE-ORGANIZE CHAPTER INTO SUBCHAPTERS TO CLARIFY STATUTORY AUTHORITY;
- c. AMEND SECTION 13-124-2 "DEFINITIONS" TO PROVIDE DEFINITIONS FOR THE TERMS "INTRODUCE" AND "RELEASE," AND AMEND THE DEFINITIONS OF "FERAL" AND "INJURIOUS;"
- d. AMEND SECTION 13-124-3 "PROHIBITED ACTIVITIES" TO PROHIBIT THE RELEASE OF INTRODUCED WILDLIFE;
- e. AMEND SECTION 13-124-8 "PENALTY" TO INCLUDE A FINE SYSTEM PURSUANT TO HRS 183D AND SEIZURE AND FORFEITURE LANGUAGE;
- f. ADD SECTION 13-124-13 "PENALTY" TO INCLUDE A FINE SYSTEM PURSUANT TO HRS 195D AND SEIZURE AND FORFEITURE LANGUAGE; AND
- g. UPDATE EXHIBITS OF INJURIOUS SPECIES, INTRODUCED WILD BIRDS, AND THREATENED AND ENDANGERED SPECIES.

AND

REQUEST FOR DELEGATION OF AUTHORITY TO ISSUE PERMITS UNDER HAWAII ADMINISTRATIVE RULES CHAPTER 124 TO THE CHAIRPERSON, AND THE ADMINISTRATOR AND BRANCH MANAGERS OF THE DIVISION OF FORESTRY AND WILDLIFE

SCOPE: STATEWIDE

STATUTE: HAWAI'I REVISED STATUTES CHAPTERS 183D, 195D

SUMMARY

The Division of Forestry and Wildlife ("Division") requests Board of Land and Natural Resources ("Board") approval to adopt amendments to Hawaii Administrative Rules ("HAR") Chapter 13-124, "Indigenous Wildlife, Endangered and Threatened Wildlife, and Introduced Wild Birds."

BACKGROUND

HAR Chapter 13-124 is the implementing rules for the wildlife statutes under Hawai'i Revised Statutes (HRS) Chapters 183D and 195D, and their primary purpose is to protect indigenous wildlife.

Protection of indigenous wildlife depends on the protection of the habitats and ecosystems upon which those species depend. Hawaiian ecosystems are among the most unique on the planet, with thousands of species that are found nowhere else in the world. These high levels of endemism are the result of the extreme isolation of the archipelago, lying more than 2,500 miles from the nearest continental land mass, very low rates of natural colonization from mainland sources, and the rapid evolution of new species through the process of natural selection and adaptive radiation. This extreme isolation also means that the unique plants and animals that make up Hawaiian ecosystems are susceptible to disturbance from introduced species that bring novel selection pressures.

Prior to the arrival of humans, Hawaiian ecosystems evolved for millennia in the absence of mammalian browsers and grazers, predators such as rats, cats, and mongoose, mosquitoes and the numerous pathogens for which they serve as vectors, and many other invertebrate species that can have profound impacts on ecological communities. As a result, indigenous Hawaiian plants and animals have evolved no natural defenses against those species and are highly susceptible to their impacts.

Introduced species negatively affect Hawai'i's environment in a variety of ways, including but not limited to direct predation on indigenous species, spread of pathogens and diseases, competition with indigenous species for limited food resources, destruction of native vegetation and habitat utilized by indigenous species, erosion, alteration of hydrologic processes, and increases in standing water that may promote mosquitoes and other disease vectors.

Unfortunately, Hawai'i's ecosystems have become host to a variety of introduced species that degrade the State's natural resources and compromise the conservation of indigenous wildlife. The threats and impacts of introduced species remain one of the most urgent conservation issues that confront biologists and land managers in Hawai'i today, and the ongoing conservation measures that are needed to mitigate their impacts cost taxpayers tens of millions of dollars every year.

While many introductions occur as a result of accidents, others may be purposeful and

prohibitions are urgently needed to deter activities that may result in introductions that harm indigenous wildlife and their habitats.

DISCUSSION

The proposed amendments to HAR Chapter 13-124 aim to prevent the further spread of introduced species by prohibiting the release of introduced wildlife.

For instance, non-native axis deer are established on Maui, Moloka'i, and Lāna'i, where they are well documented to cause significant environmental damage, but they are not established on any of the other Hawaiian Islands. Unfortunately, axis deer sightings have now been confirmed on Hawai'i Island and their presence there is the result of the purposeful introduction of that species. As a result, ongoing control activities will cost taxpayers thousands of dollars every year. In addition, mongoose are not present on Kaua'i and this is thought to be a major factor contributing to the relative protection of many indigenous bird species on that island. Each year, taxpayer dollars are expended to control potential introductions.

These proposed rule amendments take a preventative approach by prohibiting the release of introduced wildlife species and provides deterrent provisions. These proposed rule amendments also update the exhibits of injurious wildlife, introduced wild birds, and threatened and endangered species.

The proposed rule amendments are summarized below and also included in full (Attachment 1).

- Amend title of chapter and subchapters to include "introduced wildlife;"
- Re-organize chapter into subchapters to clarify statutory authority;
- Amend section 13-124-2 "definitions" to provide definitions for the terms "introduce" and "release," and amend the definitions of "feral" and "injurious;"
- Amend section 13-124-3 "prohibited activities" to prohibit the release of introduced wildlife;
- Amend section 13-124-8 "penalty" to include a fine system pursuant to HRS 183d and seizure and forfeiture language;
- Add section 13-124-13 "penalty" to include a fine system pursuant to HRS 195d and seizure and forfeiture language; and
- Update exhibits of injurious species, introduced wild birds, and threatened and endangered species.

The Division recognizes that not all introductions are necessarily undesirable and has therefore included provisions to allow the Board or its authorized representative to issue permits for such activities. Some otherwise prohibited activities may fall under the purview of the Department of Agriculture, such as activities related to the use of biocontrol measures. The existing rule and proposed revisions provide limited exceptions for the Department of Agriculture to conduct such activities without a permit requirement.

The Division conducted state-wide public hearings March 27, 2013 to April 5, 2013, and also collected mailed written testimony. The majority of verbal and written testimony received by the

Division was related to hunting, rehabilitation of wildlife, Native Hawaiian traditional and customary rights, pigeon racing, and additions or removals from the injurious species list. Attached is a summary of all public testimony organized by topic, and a response to each from the Division (Attachment 2).

DELEGATION

The Division is requesting approval to delegate certain authorities under HAR Chapter 13-124 from the Board to the Chairperson and the Division of Forestry and Wildlife. The Division notes that the delegation of authorities to issue permits as identified in Table 1 below represent potential procedures that may be followed based on a case-by-case review of permit requests. In some cases, however, such as those dealing with new or unforeseen issues, based on that review the delegated authority may conclude that a higher authority should review a permit request and determine whether the request should be approved or denied. In those cases the request will be forwarded to the appropriate authority for decision. The recommendations are summarized in Table 1 below.

Table 1: Delegations under HAR Chapter 13-124

Section	Permit Activity	Delegation
HAR 13-124-3 (a) HAR 13-124-3 (b) HAR 13-124-11	Indigenous Wildlife and Introduced Wild Bird otherwise prohibited activities including export, transport, and capture	Division Administrator
HAR 13-124-3 (c)	Injurious Wildlife release, transport, or export	Division Administrator
HAR 13-124-3 (d)	Release of introduced wildlife	Chairperson
HAR 13-124-4 HAR 13-124-12	Scientific, propagation, and educational permits for use of wildlife	Division Administrator
HAR 13-124-6	Keeping of indigenous wildlife, introduced wild birds, game birds, and game mammals	Division Administrator
HAR 13-124-7* *with exceptions	Reduction of wildlife causing crop damage, nuisance, and threat to human health*	Branch Managers
*Exceptions to HAR 13-124-7	In controversial cases such as (1) large scale or state-wide control of introduced wildlife or (2) control of indigenous wildlife, HAR 13-124-7 permits shall be prepared by the Branch, collaborating with staff biologists, and authorized by the Chairperson	Chairperson

LEGAL AUTHORITY


- HRS 91-3; Related to the amendment of administrative rules
- HRS 195D-6; Related to the authority to establish rules
- HRS 183D-3; Related to the authority to establish rules

RECOMMENDATIONS

That the Board of Land and Natural Resources:


1. That the Board grant final approval for the adoption of amendments Hawaii Administrative Rules Chapter 13-124, "Indigenous Wildlife, Endangered and Threatened Wildlife, and Introduced Wild Birds."
2. Delegate the authority to issue permits under Hawaii Administrative Rules Chapter 13-124 to the Department Chairperson and Administrator and Branch Managers of the Division of Forestry and Wildlife as identified as Table 1.

Respectfully submitted,



LISA HADWAY, Administrator
Division of Forestry and Wildlife

APPROVED FOR SUBMITTAL:



WILLIAM J. AILA, Chairperson
Board of Land and Natural Resources

Attachments:

- | | |
|------------|---|
| Exhibit 1: | HAR Chapter 13-124 Summary of Public Testimony by Topic and Responses from the Division |
| Exhibit 2: | HAR Chapter 13-124, proposed amendments in Ramsyer and Exhibits |
| Exhibit 3: | HAR Chapter 13-124, proposed amendments in Standard and Exhibits |

Exhibit 1:

Summary of public testimony organized by topics and Department of Land and Natural Resources Division of Forestry and Wildlife responses

Acronyms/Shorts:

- HAR = Hawaii Administrative Rules
- HRS = Hawaii Revised Statutes
- Department = Department of Land and Natural
- Board = Board of Land and Natural Resources
- Division = Division of Forestry and Wildlife

Topic	Approximate number of comments	Division Response
HAR § 13-124 Title: Retain the language “wild birds.”	1	The Division adopted this comment.

Topic	Approximate number of comments	Division Response
HAR § 13-124 Title: Replacing “wild birds” with “introduced wildlife” affects hunting.	1	Hunting is regulated under HAR Chapters 122 and 123, not the subject Chapter 124. The Division adopted this comment.

Topic	Approximate number of comments	Division Response
HAR § 13-124-1: Strike “wild birds” from the purpose clause.	2	HAR Chapter 124 regulates wild birds, thus the inclusion of such in the purpose clause.

Topic	Approximate number of comments	Division Response
HAR § 13-124-1: The purpose clause does not grant the authority to prohibit the introduction of wild birds.	1	The purpose clause includes management of introduced wild birds. In addition, the purpose clause includes the conservation, management, protection, and enhancement

		of indigenous species, which can encompass actions such as prohibiting the release of introduced wildlife species.
--	--	--

Topic	Approximate number of comments	Division Response
HAR § 13-124-2: Definition of cultural use, change to include “and for the practices of any of Hawaii’s numerous sub-cultures.”	1	Article XII, § 7 reaffirms the State’s commitment to protect native Hawaiian traditional and customary practices. The definition is consistent with current law.

Topic	Approximate number of comments	Division Response
HAR § 13-124-2: Definition of feral - strike “over several generations”	1	The Division adopted this comment.

Topic	Approximate number of comments	Division Response
HAR § 13-124-2: Definition of indigenous, replace “indigenous” with native and define native as “a species that occurs naturally in a particular region of Hawaii, not as a result of an accidental or deliberate human introduction.”	1	Indigenous is clear and unambiguous. It has a single scientific definition, whereas native has many other definitions and uses.

Topic	Approximate number of comments	Division Response
HAR § 13-124-2: Definition of indigenous, clarify what species are specified elsewhere by rule or permitted by the Department of Agriculture as conditionally approved.	1	<p>The Department of Agriculture maintains a list of conditionally approved species under HAR Chapter 71-6.5.</p> <p>In addition, the Division is retaining the version of the definition of injurious that</p>

		does not include this language.
--	--	---------------------------------

Topic	Approximate number of comments	Division Response
HAR § 13-124-2: Definition of indigenous, clarify that hybrid species are not included in the definition.	1	This is already the case since a hybrid would not be the species as the original.

Topic	Approximate number of comments	Division Response
HAR § 13-124-2: Definition of indigenous, everything that is currently in Hawaii should be considered indigenous and be protected.	1	Pursuant to the definition of indigenous, only species occurring naturally in Hawaii without being brought by humans are considered indigenous. Many species currently in Hawaii have been brought by humans, and many of those species are harmful to indigenous species.

Topic	Approximate number of comments	Division Response
HAR § 13-124-2: Definition of injurious, change “known to be harmful” to “later shown to be harmful.”	1	The Department must be able to demonstrate that a species is harmful to agriculture, aquaculture, indigenous wildlife or plants, or constitute a nuisance or health hazard in order to list it as injurious.

Topic	Approximate number of comments	Division Response
HAR § 13-124-2: Definition of injurious, include feral animals.	1	Not all feral animals have demonstrated conditions required to be listed as injurious, including being harmful to agriculture, aquaculture, indigenous wildlife or plants, or constitute a nuisance or health hazard.

Topic	Approximate number of comments	Division Response
HAR § 13-124-2: Definition of injurious, clarify whether a species needs to meet all or some of the defining characteristics of being harmful to agriculture, aquaculture, indigenous wildlife or plants, or constitute a nuisance or health hazard.	1	The definition injurious includes an “or” in between the conditions therefore a species needs to meet only one of the conditions in order to be injurious.

Topic	Approximate number of comments	Division Response
HAR § 13-124-2: Definition of injurious should exempt game mammals.	2	Species are listed as injurious when included in Exhibit 5 of HAR Chapter 13-124. Where even toed ungulates are listed as injurious, game mammals are specifically excluded.

Topic	Approximate number of comments	Division Response
HAR § 13-124-2: Definition of injurious, should not reference Department of Agriculture.	1	The Division adopted this comment.

Topic	Approximate number of comments	Division Response
HAR § 13-124-2: Definition of introduce, replace “wildlife” with “animal.”	1	The definition is intended to regulate wildlife not all animals such as domestic or livestock species.

Topic	Approximate number of comments	Division Response
HAR § 13-124-2: Definition of introduce is too ambiguous.	1	The Division finds that releasing wildlife into a habitat to which it is not indigenous is a clear

		explanation of the purpose and intent of the definition.
--	--	--

Topic	Approximate number of comments	Division Response
HAR § 13-124-2: Definition of introduced wildlife, reference to importation is unclear.	1	Any wildlife imported to Hawaii by humans is introduced wildlife.

Topic	Approximate number of comments	Division Response
HAR § 13-124-2: Definition of introduced wild birds, clarify whether a captive native species falls under the definition.	1	Pursuant to the definition of introduced wild birds, native species are not covered under the definition.

Topic	Approximate number of comments	Division Response
HAR § 13-124-2: Definition of introduced wild birds, include "released either purposefully or accidentally in to the environment."	1	The definition of introduce does not require intent.

Topic	Approximate number of comments	Division Response
HAR § 13-124-2: Definition of release is too ambiguous.	1	The Division finds that releasing from effective confinement is a clear explanation of the purpose and intent of the definition.

Topic	Approximate number of comments	Division Response
HAR § 13-124-2: Definition of release, remove "animal" and replace with "a certain species."	1	The Division finds that prohibiting releasing all introduced wildlife from effective confinement is most consistent with the intent of

		the prohibition on release.
--	--	-----------------------------

Topic	Approximate number of comments	Division Response
HAR § 13-124-2: Clarify how transport is defined.	1	The Division finds that a common meaning of transport is clear and unambiguous.

Topic	Approximate number of comments	Division Response
HAR § 13-124-2: Include a definition of person, and encompass commercial businesses or non-profits.	1	The term “person” is already defined in HRS § 195D-2 as “an individual, corporation, partnership, trust, association, or any other private entity, or any officer, employee, agent, department, or instrumentality of the federal government, of any state or political subdivision thereof, or of any foreign government.” There is no need to define it again in the rules.

Topic	Approximate number of comments	Division Response
HAR § 13-124-3(a): Remove protections for introduced wild birds.	1	The Division finds the protections necessary because should the public be authorized to kill all introduced wild birds there is a possibly native birds could be mistaken for introduced.

Topic	Approximate number of comments	Division Response
HAR § 13-124-3: Add “using standard and acceptable methods and in compliance with any existing rules and county, state, or federal laws.”	1	HAR 13-124-2.2 requires compliance with all federal, state, and county laws.

Topic	Approximate number of comments	Division Response
HAR § 13-124-3(c): Changing the prohibition on “transport” and “release” of injurious species to “transport and release” makes it harder to enforce.	1	The Division adopted this comment and is retaining the prohibition on “transport” and “release” of injurious species.

Topic	Approximate number of comments	Division Response
HAR § 13-124-3(c) and (d): It is unclear when permits are needed.	1	Permits are needed whenever a person wants to engage in any of the prohibited activities indicated in HAR sections 13-124-3(c), or (d)..

Topic	Approximate number of comments	Division Response
HAR § 13-124-3(c) and (d): Clarify which prohibitions apply to injurious species and which apply to introduced species.	1	HAR § 13-124-3(c) applies to injurious wildlife and HAR § 13-124-3(d) applies to introduced wildlife.

Topic	Approximate number of comments	Division Response
HAR § 13-124-3(d): Prohibitions on release of introduced wildlife should not apply to release of feral cattle, goats, or swine for slaughter.	1	The proposed definition of release means “to release from effective confinement” therefore release into a confined slaughter facility would not constitute a violation of this section.

Topic	Approximate number of comments	Division Response
HAR § 13-124-3(d): Prohibitions on release of introduced wildlife should include feral animals.	1	Feral wildlife species fall under the definition of introduced wildlife.

		HAR Chapter 124 is under the wildlife statutes HRS Chapters 183D and 195D thus can regulate wildlife species but not all animal species, such as domestic or livestock species.
--	--	---

Topic	Approximate number of comments	Division Response
HAR § 13-124-3(d): Exempt racing pigeons.	23	The use of <i>Columba livia domestica</i> for the sport of pigeon racing is not affected by HAR Chapter 124 because <i>Columba livia domestica</i> is a domestic species and thus does not fall under the definition of wildlife or introduced wildlife.

Topic	Approximate number of comments	Division Response
HAR § 13-124-3(d): Exempt Canada geese.	1	The release of Canada geese from confinement can spread disease to indigenous species.

Topic	Approximate number of comments	Division Response
HAR § 13-124-3(d): Exempt game mammals.	1	Game mammals are introduced wildlife and the release of such from confinement can cause harm to indigenous species and their habitats, damage watersheds, and spread disease.

Topic	Approximate number of comments	Division Response
HAR § 13-124-3(d): Exempt rehabilitators releasing introduced wildlife after treatment.	1	Rehabilitators may apply to have such included as a permit provision.

Topic	Approximate number of comments	Division Response
HAR § 13-124-3(d): Exempt school teachers.	1	School teachers may apply for a permit.

Topic	Approximate number of comments	Division Response
HAR § 13-124-3(d): Exempt Hawaii island.	1	Introduced wildlife have the potential to cause harm on a state-wide level, including on Hawaii island.

Topic	Approximate number of comments	Division Response
HAR § 13-124-3(d): Provide permits for rehabilitators to release introduced birds.	1	The provision already allows rehabilitators to apply for a permit.

Topic	Approximate number of comments	Division Response
HAR § 13-124-3(d): The prohibition on transport and release of introduced wildlife conflicts with Constitutionally and statutorily protected Native Hawaiian traditional and customary rights.	15	The Division does not find that prohibiting the release of introduced wildlife species from effective confinement would pose conflicts with any Constitutionally and statutorily protected Native Hawaiian traditional and customary rights.

Topic	Approximate number of comments	Division Response
HAR § 13-124-3(d): The prohibition on transport and release of introduced wildlife should extend to pets and livestock.	1	The prohibition is aimed to prohibit the release of introduced wildlife species, not domestic or livestock species.

Topic	Approximate number of comments	Division Response
HAR § 13-124-3(d): The	1	HAR Chapter 13-124

prohibition on release of introduced wildlife should extend to hunting dogs.		<p>regulates wildlife, and the definition of introduced wildlife does not include domestic species such as hunting dogs.</p> <p>Further, hunting dogs are regulated under HAR Chapter 123.</p>
--	--	--

Topic	Approximate number of comments	Division Response
HAR § 13-124-3(d): The prohibition on transport and release of introduced wildlife is too vague.	1	<p>The Division is narrowing the prohibition to just “release” of introduced species rather than “transport and release” of introduced species.</p> <p>The Division finds that the definition of “release” adequately describe what actions are prohibited.</p>

Topic	Approximate number of comments	Division Response
HAR § 13-124-3(d): Extend prohibition to possession, transfer, or transport of introduced wildlife.	1	Incorporating such revisions would affect a large section of the public and is not the intent of the draft amendments.

Topic	Approximate number of comments	Division Response
HAR § 13-124-3(d): What is the process for applying for permits.	1	Should the draft amendments be adopted, the Division will develop a permitting process.

Topic	Approximate number of comments	Division Response
HAR § 13-124-3(d): Release of introduced wildlife assists the wellbeing of confined animals.	1	The release and spread of introduced wildlife has numerous significant negative effects on Hawaii’s

		environment including but not limited to predation on and competition with indigenous species and harm to their habitats, damage to watersheds, spread of diseases, destruction of agricultural crops, and economic losses.
--	--	---

Topic	Approximate number of comments	Division Response
HAR § 13-124-3(d): There is no evidence that pigs destroy the forest therefore release of such should not be regulated.	1	It is well documented that feral pigs cause substantial environmental and economic damage in Hawaii including but not limited to: habitat loss for indigenous species, damage to watersheds including erosion and water contamination, spread of disease, and damage to agriculture crops.

Topic	Approximate number of comments	Division Response
HAR § 13-124-3(d): Remove reference to permits from Department of Agriculture or preface with state.	1	The Division finds that permits from Department of Agriculture are necessary to avoid conflicts with desired releases of introduced wildlife such as biocontrol. The reference in HAR Chapter 13-124 to Department of Agriculture applies only to the State of Hawaii Department of Agriculture.

Topic	Approximate number of comments	Division Response
HAR § 13-124-3(d): Remove exemption for Department and Division staff.	3	The Department and Division staff must be allowed to release introduced wildlife in

		the event that doing so may benefit the state and its resources.
--	--	--

Topic	Approximate number of comments	Division Response
HAR § 13-124-3(d): Extend the prohibition to monk seals.	1	Monk seals do not fall under the definition of introduced wildlife.

Topic	Approximate number of comments	Division Response
HAR § 13-124-3(d): Extend the prohibition on transport and release to genetically modified organisms.	2	HAR Chapter 13-124 regulates wildlife, and the definition of introduced wildlife does not include genetically modified plants. The definition of wildlife in this chapter does not distinguish between genetically modified and non-genetically modified wildlife. Thus, prohibitions relating to wildlife apply to genetically modified wildlife.

Topic	Approximate number of comments	Division Response
HAR § 13-124-3(d): Include fees and bonds attached to any permit issued for the release of introduced species.	1	Should the amendments be adopted, issues regarding fees or bonds will be addressed when the permitting process is developed.

Topic	Approximate number of comments	Division Response
HAR § 13-124-6: Permits for pigeons and game birds should be "shall be issued" rather than "may be issued."	1	The Department needs to have the ability to deny permits in cases where resource impacts would be unacceptable.

Topic	Approximate number of	Division Response
-------	-----------------------	-------------------

	comments	
HAR § 13-124-6: What is the definition of qualified person.	2	A person is determined to be qualified based on their Wildlife Rehabilitation Permit Application which is the permit that would be issued pursuant to this section.

Topic	Approximate number of comments	Division Response
HAR § 13-124-6: Permits should never be issued for keeping indigenous wildlife.		The Division utilizes the ability to issue permits for keeping indigenous wildlife for educational or scientific purposes.

Topic	Approximate number of comments	Division Response
HAR § 13-124-6: Permits should never be issued for propagation.		Propagation is an important tool for wildlife management, for example it has been used to prevent the extinction of endangered species.

Topic	Approximate number of comments	Division Response
HAR § 13-124-7: Delete entire section.	1	The Division regularly utilizes and relies on provisions in this section for activities tied to the management of indigenous species and natural resources.

Topic	Approximate number of comments	Division Response
HAR § 13-124-7: Section grants the Department too much power.	6	This provision is necessary to allow the Department to manage the State's natural resources while also protecting the environment and the economic well being of the State.

Topic	Approximate number of comments	Division Response
HAR § 13-124-7: This section should not apply to private land.	1	The Division adopted this comment with respect to game mammals on private property when otherwise in compliance with HAR Chapter 123.

Topic	Approximate number of comments	Division Response
HAR § 13-124-7: Delete requirement for permits.	1	Permits are required for safety and to ensure wildlife is not taken unless consistent with the purposes of this chapter.

Topic	Approximate number of comments	Division Response
HAR § 13-124-7: This section enables safaris.	1	That does not appear to be within the scope of this rule.

Topic	Approximate number of comments	Division Response
HAR 13-124-7: Clarify that no permit is needed to destroy wildlife that is not listed in Exhibit 4.	1	Exhibit 4 is not exhaustive (see definition). Prohibition encompasses more than just the birds listed on Exhibit 4.

Topic	Approximate number of comments	Division Response
HAR 13-124-7(a)(2): Reference to 300 acres is arbitrary.	2	This comment has been adopted.

Topic	Approximate number of comments	Division Response
HAR 13-124-7(a)(4): Delete this subsection.	1	This provision is necessary to allow the Department to manage the State's natural resources while also protecting the environment and the economic well being

		of the State.
--	--	---------------

Topic	Approximate number of comments	Division Response
HAR 13-124-7(a)(4): Include “the board or its authorized representative may authorize the control of injurious or introduced wildlife for a specified period of time with the provisions of section (b)(1); agent investigations and confirms damage and (2) permit issued to specify control method.”	1	The Division regularly utilizes and relies on the existing provisions in this subsection for activities tied to the management of indigenous species and natural resources.

Topic	Approximate number of comments	Division Response
HAR 13-124-7(a)(4): Specify how species are found generally harmful.	2	Generally harmful means such impacts multiple species over a wide geographic area.

Topic	Approximate number of comments	Division Response
HAR 13-124-7(a)(4): Clarify what it means for a species to be destructive.	1	The Division considers a species to be destructive if it causes damage or harm to a resource

Topic	Approximate number of comments	Division Response
HAR 13-124-7(a)(4): Clarify what it means for a species to be constituting a threat.	1	A species poses a threat to human health or safety when the species is likely to cause harm or danger to humans

Topic	Approximate number of comments	Division Response
HAR 13-124-7(a)(4): Include ability to require reports when appropriate.	2	The Board or its authorized representative does have the ability to require reports when

		appropriate
--	--	-------------

Topic	Approximate number of comments	Division Response
HAR 13-124-7(a)(4): Clarify whether the public may apply for permits or just staff.	1	The public may apply for permits.

Topic	Approximate number of comments	Division Response
HAR 13-124-7(a)(4): Clarify who can capture and kill introduced and injurious wildlife.	1	Persons issued a permit under HAR 13-124-7 may destroy introduced wildlife. This provision does not apply to injurious wildlife.

Topic	Approximate number of comments	Division Response
HAR 13-124-7(a)(4): Include "may authorize persons to destroy or control the species."	1	HAR 13-124-7(a)(4) includes such language.

Topic	Approximate number of comments	Division Response
HAR 13-124-7(a)(4): Permits under this section should require compliance with HRS 343.	1	Such permits were declared exempt by the Environmental Council under the exemption list for the Division of Forestry and Wildlife regarding wildlife management actions.

Topic	Approximate number of comments	Division Response
HAR 13-124-7(a)(4): This subsection should not apply to imperiled species.	1	This subsection only applies to introduced wildlife, as noted in the text.

Topic	Approximate number of comments	Division Response
-------	--------------------------------	-------------------

HAR 13-124-8: Penalties are inadequate.	5	The monetary penalties outlined in HAR Chapter 124 are pursuant to the authorizing statutes, HRS Chapters 183D and HRS 195D, therefore an increase in the monetary penalties would need to be done on a statutory level.
---	---	--

Topic	Approximate number of comments	Division Response
HAR 13-124-8: Penalties cap is arbitrary.	4	The monetary penalties outlined in HAR Chapter 124 are pursuant to the authorizing statutes, HRS Chapters 183D and HRS 195D, therefore an increase in the monetary penalties would need to be done on a statutory level.

Topic	Approximate number of comments	Division Response
HAR 13-124-8: There should not be an increase in penalties.	1	The monetary penalties outlined in HAR Chapter 124 are pursuant to the authorizing statutes, HRS 183D and HRS 195D, therefore an increase in the monetary penalties would need to be done on a statutory level.

Topic	Approximate number of comments	Division Response
HAR 13-124-8: Include seizure and forfeiture language.	1	This section does include seizure and forfeiture language.

Topic	Approximate number of comments	Division Response
HAR 13-124-8: Penalties should not include forfeiture.	1	Including a forfeiture clause serves as an important deterrent method.

Topic	Approximate number of comments	Division Response
HAR 13-124-8: Require a conviction prior to determination of a misdemeanor.	1	Conviction of a violation is required for determination of a misdemeanor.

Topic	Approximate number of comments	Division Response
HAR 13-124-8: Allowing administrative fines is an abuse of power.	1	Administrative remedies are a commonly used function of the Board and other quasi-judicial entities, and are authorized by statute and rule. HRS § 171-6(15).

Topic	Approximate number of comments	Division Response
HAR 13-124-8(b): Replace “take” with “transport and release.”	2	The references to “take” is a legal definition within HRS chap. 183D that applies to the protections for indigenous species and introduced wild birds.

Topic	Approximate number of comments	Division Response
HAR 13-124-12: Remove provision for cultural permits.	1	The Division finds that reasonable educational and cultural use of wildlife helps the public to enhance its connection to and understanding of natural resources. As a result, the Division will continue to issue these kinds of permits.

Topic	Approximate number of comments	Division Response
HAR 13-124-12: Extend	1	This provision does not limit

provision for cultural permits to other cultures besides Native Hawaiians.		cultural permits exclusively to Native Hawaiians
--	--	--

Topic	Approximate number of comments	Division Response
HAR 13-124-13: Penalties are inadequate.	5	The monetary penalties outlined in HAR Chapter 124 are pursuant to the authorizing statutes, HRS Chapters 183D and 195D, therefore an increase in the monetary penalties would need to be done on a statutory level.

Topic	Approximate number of comments	Division Response
HAR 13-124-13: There should not be an increase in penalties.	1	The monetary penalties outlined in HAR Chapter 124 are pursuant to the authorizing statutes, HRS Chapters 183D and 195D, therefore an increase in the monetary penalties would need to be done on a statutory level.

Topic	Approximate number of comments	Division Response
HAR 13-124-13: Include seizure and forfeiture language.	1	This section does include seizure and forfeiture language.

Topic	Approximate number of comments	Division Response
HAR 13-124-13: Penalties should not include forfeiture.	1	Including a forfeiture clause serves as an important deterrent method.

Topic	Approximate number of comments	Division Response
HAR 13-124-13: Include	1	The Division has adopted this

“sub” ahead of references to “chapter.”		comment.
---	--	----------

Topic	Approximate number of comments	Division Response
HAR 13-124-13: Allowing administrative fines in an abuse of power.	1	Administrative remedies provide the Dept. with flexibility in choosing an appropriate method of enforcement..

Topic	Approximate number of comments	Division Response
Exhibit 1: This list should be based off the federal list of endangered species.	1	Pursuant to HRS § 195D-4 and HAR § 14-124-2, the state list of endangered species includes federally listed species.

Topic	Approximate number of comments	Division Response
Exhibit 2: Change the Hawaiian name of Band-rumped Storm petrel to ‘Ake ‘Ake.	1	The Division had adopted this comment.

Topic	Approximate number of comments	Division Response
Exhibit 2: List the pueo as endangered state-wide	1	The Division does not currently find that the pueo warrants listing state-wide. The public may formally petition for state listing through the process outlined in HRS chapter 195D.

Topic	Approximate number of comments	Division Response
Exhibit 4: Certain species of doves, Mourning Dove, Spotted Dove, Barred Dove,	3	None of these birds are listed in Exhibit 4

are protected under Exhibit 4 and also listed as game birds in Chapter 122 thus creating conflicts with hunting and racing.		
---	--	--

Topic	Approximate number of comments	Division Response
Exhibit 4: Remove all game birds.	1	No game birds are listed in Exhibit 4

Topic	Approximate number of comments	Division Response
Exhibit 5: Include rat species, Black rat, Norway rat, Polynesian rat, and house mouse.	3	These species fall under the definition of introduced wildlife, and should the suggested amendments be adopted, their release would be prohibited. Designating these species as injurious wildlife would add an additional prohibition against export. Because these species are not bred for commerce, prohibiting their export is unnecessary.

Topic	Approximate number of comments	Division Response
Exhibit 5: Include rabbits, hares, dogs, cats, and feral cattle.	1	HAR Chapter 13-124 regulates wildlife. The definition of wildlife does not include domestic species.

Topic	Approximate number of comments	Division Response
Exhibit 5: Include feral cats and dogs.	2	HAR Chapter 13-124 regulates wildlife. The definition of wildlife does not include domestic species.

Topic	Approximate number of	Division Response
-------	-----------------------	-------------------

	comments	
Exhibit 5: Include all ungulates including game mammals.	3	Including ungulates that are game mammals would cause a direct conflict with the hunting rules in HAR Chapter 123.

Topic	Approximate number of comments	Division Response
Exhibit 5: Include the family Chamaeleonidae.	1	The Department has adopted this comment.

Topic	Approximate number of comments	Division Response
Exhibit 5: Include five spotted winged lace hopper.	1	The Division does not find this species to meet the conditions warranting listing.

Topic	Approximate number of comments	Division Response
Exhibit 5: Include all species that are harmful to agriculture, aquaculture, indigenous wildlife or plants, or constitute a nuisance or health hazard.	1	The definition of injurious wildlife under HAR Chapter 124 describes the general characteristics of injurious wildlife and also makes specific reference to species listed under Exhibit 5. The removal of a list of specific taxa as being “injurious wildlife” would be a broad change that would make this definition overly vague and difficult to enforce. This is not the intent of the proposed amendments.

Topic	Approximate number of comments	Division Response
Exhibit 5: Do not include barn owls as they provide rodent control for farmers.	1	Barn owls directly predate on and compete with indigenous avian species, and thus have demonstrated sufficient

		characteristics of harm to indigenous wildlife, which is a condition that warrants listing as injurious.
--	--	--

Topic	Approximate number of comments	Division Response
Exhibit 5: Exempt game mammals by island, rather than all game mammals.		HAR Chapter 13-123 identifies game mammals by island therefore game mammals are exempted from Exhibit 5 by island.

Topic	Approximate number of comments	Division Response
Exhibit 5: Remove domestic pigeons.	1	The Division adopted this recommendation.

Topic	Approximate number of comments	Division Response
Exhibit 5: Provide a more expedient avenue for making changes to the injurious species list.	1	The injurious species list provided in Exhibit 5 is part of HAR Chapter 13-124 therefore the Department must comply with the rule making process identified in HRS Chapter 91 when proposing changes to the injurious species list provided in Exhibit 5.

Topic	Approximate number of comments	Division Response
Exhibit 5: Clarify how species are added.	1	The injurious species list provided in Exhibit 5 is part of HAR Chapter 13-124 therefore the Department must comply with the rule making process identified in HRS Chapter 91 when proposing changes to the injurious species list provided in Exhibit

		5.
--	--	----

Topic	Approximate number of comments	Division Response
Exhibit 5: Remove Mallards, Old World Fly Catchers, and Babblers.	1	These species have displayed characteristics warranting listing as injurious.

Topic	Approximate number of comments	Division Response
Exhibit 5: Include cattle egrets.	2	This Division had adopted this comment.

Topic	Approximate number of comments	Division Response
Exhibit 5: Reference to even toed ungulate is unclear.	1	Even toed ungulates are hooved animals with an even number of toes. This includes species in the order Artiodactyla.

Topic	Approximate number of comments	Division Response
General: Clarify whether the subject HAR Chapter 13-124 applies to private property.	1	HAR Chapter 13-124 does apply to private property.

Topic	Approximate number of comments	Division Response
General: Given the replacement of “introduced wild birds” with “introduced wildlife” in the title, replace “introduced wild birds” with “introduced wildlife” throughout the subject HAR Chapter 13-124.	1	The Division is retaining “wild birds” in the title.

Topic	Approximate number of comments	Division Response
-------	--------------------------------	-------------------

General: Include invasive species programs to the disposition of penalty funds under HRS 183D-10.5.	1	Where the monetary penalties outlined in HRS Chapter 183D are deposited are specified by statute. Any change would need to be done on a statutory level.
---	---	--

Topic	Approximate number of comments	Division Response
General: Please try to avoid killing invasive species.	1	The Division is mandated to protect native resources. In order to meet this mandate, utilizing lethal methods as part of the control of invasive species is sometimes necessary.

Topic	Approximate number of comments	Division Response
General: Exempt livestock, poultry, horses, pets and show animals from Chapter 124.	1	HAR Chapter 13-124 regulates wildlife, and the definition of wildlife does not include domestic species.

Topic	Approximate number of comments	Division Response
General: Remove feral cattle from Chapter 123	1	This comment is outside the scope of HAR Chapter 13-124.

Topic	Approximate number of comments	Division Response
General: There was no request for public input on the draft	1	The Department solicited public testimony on the draft amendments by placing a legal notice regarding the amendments and associated hearings in newspapers of the counties affected, on the Lieutenant Governor's website, the Department's website, and the Division's

		<p>website. The notices were placed more than 30 days before the first hearing, pursuant to HRS Chapter 91. In addition, the Department issued a press release that was picked up by various news media. The Department held state-wide public hearings and collected testimony up to 15 days after the last public hearing, pursuant to HRS 91.</p>
--	--	--

Topic	Approximate number of comments	Division Response
General: The administrative rule making process is undemocratic.	1	The Department follows the rule making process outlined in HRS 91.

Topic	Approximate number of comments	Division Response
General: The community should be included in rule making.	2	<p>The Department solicited public testimony on the draft amendments by placing a legal notice regarding the amendments on associated hearings in newspapers of the counties affected, on the Lieutenant Governor's website, the Department's website, and the Division's website, all more than 30 days before the first hearing, pursuant to HRS Chapter 91. In addition, the Department issued a press release that was picked up by various news media. The Department held state-wide public hearings, and collected testimony up to 15 days after the last public hearing, pursuant to HRS 91.</p>

Topic	Approximate number of comments	Division Response
General: There was not enough time for public comment.	1	The Department solicited public testimony on the draft amendments by placing a legal notice regarding the amendments and associated hearings in newspapers of the counties affected, on the Lieutenant Governor's website, the Department's website and the Division's website, more than 30 days before the first hearing, pursuant to HRS Chapter 91. In addition, the Department issued a press release that was picked up by various news media. The Department held state-wide public hearings, and collected testimony up to 15 days after the last public hearing, pursuant to HRS Chapter 91.

Topic	Approximate number of comments	Division Response
General: The draft amendments should have been posted at each hearing venue.	1	Pursuant to HRS Chapter 91, the Department placed notice of the draft amendments with a link to electronic copies and instructions for requesting hard copies in newspapers of the counties affected, on the Lieutenant Governor's website, the Department's website, and the Division's website, more than 30 days before the first hearing. The Department also provided hard copies at each hearing.

Topic	Approximate number of comments	Division Response
-------	--------------------------------	-------------------

General: Should have noticed the hearing in the Molokai Dispatch.	1	Pursuant to HRS Chapter 91, the Department placed notice of the draft amendments in newspapers of the counties affected, which for Maui County was the Maui News.
---	---	---

Topic	Approximate number of comments	Division Response
General: The press release regarding public hearings was in news media less than 30 days before the hearing.	1	Issuing a press release is not a requirement under HRS Chapter 91. The Department developed a press release to increase awareness of the draft amendments and associated hearings as a courtesy to the public.

Topic	Approximate number of comments	Division Response
General: The power point at the public hearing was poor quality.	1	Pursuant to HRS Chapter 91, the Department is required to collect public testimony on draft amendments to administrative rules. The power point provided at the public hearing was a courtesy to the public and meant to assist with understanding the scope of the draft amendments. The Division finds that the power point was comprehensive and detailed with respect to the draft amendments.

Topic	Approximate number of comments	Division Response
General: The audio recording at the public hearing was poor quality.	1	The Division audio recorded all public hearings using above standard devices, which provided above standard quality recordings that staff

		used to transcribe the public testimony from all public hearings.
--	--	---

Topic	Approximate number of comments	Division Response
General: Staff at public hearings did not answer all questions.	1	<p>The staff present at public hearings included hearing officers authorized by the BLNR as well as support staff.</p> <p>The role of the hearing officer was to facilitate public hearings to collect testimony on the draft amendments to HAR Chapter 13-124. The role of the hearing officer is not to answer questions regarding the draft amendments.</p>

Topic	Approximate number of comments	Division Response
General: Board member Rob Pacheco did not attend the public hearing and should therefore abstain from voting.	1	Under the rule making process provided in HRS Chapter 91, Board members are not required to attend public hearings and absence would not require recusal from voting on the subject.

Topic	Approximate number of comments	Division Response
General: Board members should be present at all public hearings.	2	Under the rule making process provided in HRS Chapter 91, Board members are not required to attend public hearings.

Topic	Approximate number of comments	Division Response
General: A deputy Attorney	1	That is not required by HRS

General name should be included on the draft/final amendments, not just a signature.		chapter 91.
--	--	-------------

Topic	Approximate number of comments	Division Response
General: A deputy Attorney General should be present at all public hearings.	2	Under the rule making process provided in HRS Chapter 91, deputy Attorneys General are not required to attend public hearings.

Topic	Approximate number of comments	Division Response
General: Staff at the hearing did not answer questions regarding the process for adding species to the injurious list.	1	Staff did provide an overview of the rule making process and how species are added to the injurious list through rule making.

Topic	Approximate number of comments	Division Response
General: Include a provision that states "pet animals shall not be bred, propagated, raised or kept for consumption or for hunting."	1	HAR Chapter 13-124 regulates wildlife, and the definition of wildlife does not include domestic species.

Topic	Approximate number of comments	Division Response
General: The public comment period should be extended 60 days.	1	The Division has accepted all late testimony.

Topic	Approximate number of comments	Division Response
General: Consult with the Aha Moku.	2	Neither HRS Chapter 171 or HRS Chapter 91 requires

		consultation with the Aha Moku for this process. The Division will, however, consult with the Aha Moku as cultural questions arise during implementation.
--	--	---

Topic	Approximate number of comments	Division Response
General: The Department should have a game management plan for Hawaii Island.	1	Game management is outside the scope of the draft amendments.

Topic	Approximate number of comments	Division Response
General: Incorporate the community in game management.	2	Game management is outside the scope of the draft amendments.

Topic	Approximate number of comments	Division Response
General: Ungulates should not be regulated because they are a food source.	3	The Department and Division are Constitutionally and statutorily mandated to manage natural resources, which includes regulating the release of certain ungulates.

Topic	Approximate number of comments	Division Response
General: Pigs should not be called ungulates.	1	Pigs are ungulates.

Topic	Approximate number of comments	Division Response
General: The amendments will be difficult to enforce.	2	HAR Chapter 13-124 is enforced by the Division of Conservation and Resource Enforcement.

Topic	Approximate number of comments	Division Response
General: The Division of Conservation and Resource Enforcement does not have jurisdiction on private property.	1	The Division of Conservation and Resource Enforcement is enabled to enforce law and rules including but not limited to laws and rules under the Department's purview, which do apply on private property.

Topic	Approximate number of comments	Division Response
General: The State and Department do not have the authority to amend administrative rules.	1	Pursuant to HRS Chapter 91 both the State and Department are granted the authority to amend administrative rules. Further, pursuant to HRS Chapters 183D and 195D (the guiding statutes for HAR 13-124) the Department is mandated to develop administrative rules.

Topic	Approximate number of comments	Division Response
General: The State and Department do not have the authority to regulate natural resources.	1	The Department is mandated to manage natural resources pursuant to the State Constitution and Hawaii Revised Statutes.

Topic	Approximate number of comments	Division Response
General: The Department does not protect listed species or cultural sites.	1	<p>The comment regarding cultural sites is outside the scope of the draft amendments.</p> <p>The Department contains various Divisions that manage listed species including provisions under HRS 195D and HAR Chapter 13-124.</p>

Topic	Approximate number of comments	Division Response
General: The Department's memo to the Governor requesting approval to conduct public hearings states that Board approved public hearings on 11/10/12 rather than 11/10/11.	1	The Division considers this a typo of insignificant value.

Topic	Approximate number of comments	Division Response
General: The memo from the Small Business Regulatory Review Board to the Department erroneously finds there to be no impacts to small businesses.	1	The Division considers the assessment from the Small Business Regulatory Review Board to be valid and accurate.

Topic	Approximate number of comments	Division Response
General: The Department should consult with cultural practitioners and the Office of Hawaiian Affairs.	1	The Department and Division solicited comments on the draft amendments to HAR Chapter 13-124 through various methods including the public review process provided in HRS Chapter 91.

Topic	Approximate number of comments	Division Response
General: The draft amendments to HAR Chapter 13-124 are arbitrary and capricious.	1	Regarding HAR Chapter 13-124, the Department and Division are authorized to promulgate administrative rules pursuant to HRS Chapters 91, 183D, and 195D. The draft amendments to HAR Chapter 13-124 further the mission of the Department and Division, and the purpose and intent of HRS Chapters 183D

		and 195D.
--	--	-----------

Topic	Approximate number of comments	Division Response
General: The State should not increase taxes.	1	The issue of taxes is outside the scope of the draft amendments.

Topic	Approximate number of comments	Division Response
General: The Department should open more game areas.	1	Game management is outside the scope of the draft amendments.

Topic	Approximate number of comments	Division Response
General: There are too many restricted areas in the forest.	1	This comment is outside the scope of the draft amendments.

Topic	Approximate number of comments	Division Response
General: The State does not own any land thus cannot regulate anything.	1	The State does own land in Hawaii. The Department is Constitutionally and statutorily mandated to manage natural resources, including regulations on wildlife. HAR Chapter 13-124 applies to private property in addition to State land.

Topic	Approximate number of comments	Division Response
General: The draft amendments to HAR Chapter 13-124 are a ploy for funding.	1	The proposed amendments to HAR Chapter 13-124 do not generate funding for the Department or Division. Penalties collected under the administrative remedies section would be used to

		rectify damage caused by the violation.
--	--	---

Topic	Approximate number of comments	Division Response
General: The room at the Hilo public hearing was too small.	1	Based on the availability of various venues, the Division found the large public meeting room at the Division's Hilo base yard to be the best location. The public meeting room had also been used previously by the Division for administrative rule public hearings.

Topic	Approximate number of comments	Division Response
General: Bio control kills native species.	1	This comment is outside the scope of the draft amendments.

Topic	Approximate number of comments	Division Response
General: Ungulates need to be better managed because they are a food source.	1	This comment is outside the scope of the draft amendments.

Topic	Approximate number of comments	Division Response
General: The Hawaii Island game management commission should manage game.	1	This comment is outside the scope of the draft amendments.

Topic	Approximate number of comments	Division Response
General: Aerial shooting of ungulates should not be allowed.	2	This comment is outside the scope of the draft amendments.

Topic	Approximate number of comments	Division Response
General: A key to Ramseyer format should be included in draft amendments.	1	The Division will consider this for all future draft amendments.

Topic	Approximate number of comments	Division Response
General: Include language regarding compliance with all laws and severability.	2	Compliance with all laws is under HAR § 13-124-2.2, and severability is under HAR § 13-124-2.4.

Topic	Approximate number of comments	Division Response
General: Threatened and endangered species should never be sold or traded.	1	<p>This comment is outside the scope of the draft amendments.</p> <p>Pursuant to HRS § 195D-4, threatened and endangered species shall not be sold or traded.</p>

Topic	Approximate number of comments	Division Response
General: Pigs should not be eradicated.	1	This comment is outside the scope of the draft amendments.

Topic	Approximate number of comments	Division Response
General: Aerial shooting is a waste of money.	1	This comment is outside the scope of the draft amendments.

Topic	Approximate number of comments	Division Response
General: Game management areas should never be closed.	1	This comment is outside the scope of the draft amendments.

		Game management closures are regulated under HAR Chapter 123.
--	--	---

Topic	Approximate number of comments	Division Response
General: Movement of ungulates should not be regulated.	1	Movement contributes to dispersal with population level consequences resulting in more impacts to natural resources, loss of ecological services, and public costs.

Topic	Approximate number of comments	Division Response
General: No one should be able to use pesticides on Molokai unless they consult with indigenous people.	1	This comment is outside the scope of the draft amendments.

Topic	Approximate number of comments	Division Response
General: The Department should not be allowed to use pesticides.	1	This comment is outside the scope of the draft amendments.

Topic	Approximate number of comments	Division Response
General: There should be no penalties section under HAR Chapter 13-124.	1	Penalties are an effective method used to deter future violations.

Topic	Approximate number of comments	Division Response
General: Deer should be defined independently and not included as a game mammal on Molokai.	1	This comment is outside the scope of the draft amendments.

Topic	Approximate number of comments	Division Response
General: The Department should not kill goats and leave them in rivers.	1	This comment is outside the scope of the draft amendments.

Topic	Approximate number of comments	Division Response
General: Include a prohibition on killing fish in the Northwestern Hawaiian Islands.	1	This comment is outside the scope of the draft amendments.

Topic	Approximate number of comments	Division Response
General: The Department needs to investigate safaris for illegally transported ungulates.	1	This comment is outside the scope of the draft amendments.

Topic	Approximate number of comments	Division Response
General: The Department should not regulate hunting.	1	This comment is outside the scope of the draft amendments.

Topic	Approximate number of comments	Division Response
General: The Department does not support monk seal volunteers.	1	This comment is outside the scope of the draft amendments.

Topic	Approximate number of comments	Division Response
General: The Department should not require permits for camping.	1	This comment is outside the scope of the draft amendments.

--	--	--

Topic	Approximate number of comments	Division Response
General: There should be no distinction between native and introduced wildlife.	1	The Division finds that there is a necessary distinction between native and introduced wildlife.

Exhibit 2

Rules Amending Title 13
Hawaii Administrative Rules

December 12, 2014

1. Chapter 124 of Title 13, Hawaii Administrative Rules, entitled "Indigenous Wildlife, Endangered and Threatened Wildlife, and Introduced Wild Birds" is amended and compiled to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

SUBTITLE 5

FORESTRY AND WILDLIFE

PART 2

WILDLIFE

CHAPTER 124

INDIGENOUS WILDLIFE, ENDANGERED AND THREATENED
WILDLIFE, INJURIOUS WILDLIFE, ~~[AND]~~ INTRODUCED WILD
BIRDS, AND INTRODUCED WILDLIFE

Subchapter 1 General Provisions

\$13-124-1	Purpose
\$13-124-2	Definitions
\$13-124-2.1	Revocation of permits
\$13-124-2.2	Compliance with laws
\$13-124-2.3	Exemption
\$13-124-2.4	Severability

Exhibit 2

Subchapter 2 Indigenous, Injurious, Introduced Wild Birds, and Introduced Wildlife

- §13-124-3 Prohibited activities
- §13-124-4 Scientific, propagation, and
educational permits
- §13-124-5 Repealed
- §13-124-6 Permits for keeping indigenous wildlife,
introduced wild birds, game birds, and
game mammals
- §13-124-7 Crop damage, nuisance, and threat to
human health and safety permits
- §13-124-8 Penalty

Subchapter 3 Endangered and Threatened Wildlife

- §13-124-11 Prohibited activities
- §13-124-12 Scientific, propagation, and
educational permits
- §13-124-13 Penalty

Historical Note: Chapter 13-124, Hawaii
Administrative Rules, is based substantially upon
Regulation 18 of the Division of Fish and Game,
Department of Land and Natural Resources. [Eff 8/10/53;
am 10/10/55; am 3/28/58 and ren Regulation 6; am
9/8/73; R 3/22/82]

SUBCHAPTER 1

GENERAL PROVISIONS

§13-124-1 Purpose. The purpose of this
chapter is to conserve, manage, protect, and enhance
indigenous wildlife; and manage introduced wild
birds. [Eff 3/22/82; am and comp 8/28/86; am and comp
3/2/98; comp] (Auth: HRSS\$ 183D-2,
183D-3, 183D-61, 195D-3, 195D-4, 195D-6) (Imp: HRSS\$

Exhibit 2

183D-2, 183D-3, 195D-3, 195D-4, 195D-6)

§13-124-2 Definitions. As used in this chapter unless the context requires otherwise:

"Agriculture" means the production of crops which are planted, cultivated, and harvested for food, ornamental, grazing, cultural, medicinal or forest purposes.

"Aquaculture" means the farming or ranching of aquatic life in a controlled salt, brackish, or fresh water environment; provided that the farm or ranch is on or directly adjacent to land.

"Board" means the board of land and natural resources.

"Crops" means a plant or animal or product thereof that can be grown and harvested for profit or subsistence.

"Cultural use" means use for traditional native Hawaiian practices.

"Department" means the department of land and natural resources.

"Domestic animal" means any of various animals which have been domesticated by humans in a condition mainly dependent on humans.

"Endangered wildlife" means any species, subspecies, or population of wildlife that has been officially listed by the federal government as endangered and any species, subspecies, or population of indigenous wildlife listed in, but not limited to the exhibit entitled "Exhibit 2, Chapter 13-124, List of Species of Endangered Wildlife in Hawaii, [6/13/96] [10/28/11] 11/1/14" and as updated, which is located at the end of this chapter and incorporated by reference.

"Export" means shipment to any point outside the State.

"Feral" means having escaped or been released from domestication and reverted to a wild state [~~over several~~ generations].

"Game birds" means those birds designated by [~~law~~] statute or rule for hunting.

Exhibit 2

"Game mammals" means those mammals designated by ~~[law]~~ statute or rule for hunting.

"Indigenous wildlife" means any species or subspecies of animal, including migratory forms, occurring or living naturally in Hawaii without having been brought to Hawaii by humans and listed in, but not limited to, the exhibit entitled "Exhibit 1, Chapter 13-124, Indigenous Wildlife of Hawaii, [2/1/97] 11/1/14" and as updated, which is located at the end of this chapter and incorporated by reference.

"Injurious wildlife" means any species or subspecies of animal ~~[except game birds and game mammals]~~ which is known to be harmful to agriculture, aquaculture, indigenous wildlife or plants, or constitute a nuisance or health hazard and is listed in the exhibit entitled "Exhibit 5, Chapter 13-124, List of Species of Injurious Wildlife in Hawaii, [2/1/97] [10/28/11] 11/1/14" and as updated, which is located at the end of this chapter and incorporated by reference; and as established and designated by the board as injurious wildlife.

"Introduce" means an act of releasing wildlife into a habitat to which it is not indigenous.

"Introduced wild birds" means any non-domesticated species of birds introduced or imported to Hawaii by humans and living in a wild state other than game birds, including, but not limited to, species listed in the exhibit entitled "Exhibit 4, Chapter 13-124, Introduced Wild Birds Other Than Game Birds Which Have Become Established in the Wild, [2/1/97] [10/28/11] 11/1/14" and as updated, which is located at the end of this chapter and incorporated by reference.

"Introduced wildlife" means any wildlife introduced or imported to Hawaii by humans ~~[and living in a wild and undomesticated state].~~

"Non-domesticated animal" means any of various animals that have not been domesticated by humans and that are in a condition mainly independent of humans.

"Plant" means any member of the plant kingdom, including seeds, roots, and other parts thereof.

"Release" means to free an animal from confinement or restraint.

Exhibit 2

"Take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, possess, or collect endangered or threatened species of wildlife, or to attempt to engage in any such conduct.

"Threatened wildlife" means any species, subspecies, or population of wildlife that has been officially listed by the federal government as threatened and any species, subspecies, or population of indigenous wildlife listed in, but not limited to, the exhibit entitled "Exhibit 3, Chapter 13-124, List of Species of Threatened Wildlife in Hawaii, [2/1/97] [10/28/11] 11/1/14" and as updated, which is located at the end of this chapter and incorporated by reference.

"Wildlife" means any member of any non-domesticated species of the animal kingdom, whether reared in captivity or not, including any mammal, fish, bird, amphibian, reptile, mollusk, crustacean, arthropod, or other invertebrate, and includes any part, product, egg, or offspring thereof, or the dead body or parts thereof. [Eff 3/22/82; am and comp 8/28/86; am and comp 3/2/98; am and comp]
(Auth: HRS §§ 183D-2, 183D-3, 183D-31, 183D-51, 183D-61, 195D-3, 195D-4, 195D-6) (Imp: HRS §§ 183D-2, 183D-3, 183D-31, 183D-51, 183D-61, 195D-3, 195D-4, 195D-6)

§13-124-2.1 Revocation of permits. Any permit issued pursuant to this chapter shall be revocable for good cause and shall be nonassignable unless otherwise provided by law. Any person whose permit has been revoked shall not be eligible to apply for another permit until the expiration of two years from the date of revocation. [Eff and comp] (Auth: HRS §§183D-2, 183D-3, 183D-6, 183D-61, 195D-3, 195D-4, 195D-5, 195D-6) (Imp: HRS §§183D-2, 183D-3, 183D-6, 183D-61, 195D-3, 195D-4, 195D-5, 195D-6, 195D-8, 195D-9)

Historical note: §13-124-2.1 is based substantially upon §13-124-7.1. [Eff 3/2/98; R]

§13-124-2.2 Compliance with laws. All persons applying for and receiving permits under this chapter shall comply with all federal, state, and county laws, rules, and required permits or licenses. [Eff and comp] (Auth: HRS §§183D-3, 183D-6, 183D-61, 195D-3, 195D-4, 195D-5, 195D-6) (Imp: HRS §§183D-3, 183D-6, 183D-61, 195D-3, 195D-4, 195D-5, 195D-8, 195D-9)

Historical note: §13-124-2.2 is based substantially upon §13-124-7.2. [Eff_3/2/98; R
]

§13-124-2.3 Exemption. This chapter shall not apply to any activity involving indigenous, endangered, or threatened wildlife which was held in captivity, or in a controlled environment on May 10, 1975; provided that the purposes of the holding were not contrary to the purposes of chapter 195D, HRS, and that the wildlife were not held for sale or resale. [Eff and comp] (Auth: HRS §§183D-61, 195D-3, 195D-4, 195D-6) (Imp: HRS §§183D-61, 195D-3, 195D-4, 195D-6)

Historical note: §13-124-2.3 is based substantially upon §13-124-9. [Eff and comp 8/28/86; am and comp 3/2/98; R]

§13-124-2.4 Severability. These rules are declared to be severable and if any portion or the application thereof to any person or property is held invalid for any reason, the validity of the remainder of these rules or the application of the remainder to other persons or property shall not be affected. [Eff and comp] (Auth: HRS §§183D-2, 183D-3, 195D-6, 195D-10) (Imp: HRS §§183D-2, 183D-3, 195D-6, 195D-10)

Exhibit 2

Historical note: §13-124-2.4 is based
substantially upon §13-124-10. [Eff 3/2/98; R]

SUBCHAPTER 2

INDIGENOUS, INJURIOUS, INTRODUCED WILD BIRDS, AND
INTRODUCED WILDLIFE

§13-124-3 Prohibited activities. (a) With respect to indigenous wildlife and introduced wild birds, and except as provided in ~~[subsections (d) and (e),]~~ subsection (e) or as permitted by the department, no person shall, or attempt to:

- (1) Catch, possess, injure, kill, destroy, sell, offer for sale, or transport any such species, or any young or egg, or the dead body or skin thereof; or
- (2) Export any such species, or any young or egg, or the dead body or skin thereof from the State.

The prohibitions against the destruction of wild birds shall not apply to those introduced wild birds listed as injurious wildlife.

~~(b) [With respect to endangered and threatened species of wildlife except as provided in subsection (e), no person shall or attempt to:~~

- ~~(1) Take, possess, process, sell, offer for sale, or transport any such species, any young or egg, or the dead body or skin thereof within the State;~~
- ~~(2) Export any such species, or any young or egg, or the dead body or parts thereof, from the State.]~~

~~[(e)]~~ No person shall remove, damage, or disturb the nest of any indigenous~~[, endangered, or threatened species]~~ wildlife except as provided in subsection (e) or as permitted by the department.

~~[(d)]~~ (c) With respect to injurious wildlife, except as provided in subsection (e) or as permitted

Exhibit 2

by the department, no person shall, or attempt to:

- (1) Release injurious wildlife into the wild;
- (2) Transport ~~[them]~~ live injurious wildlife to islands or locations within the State where they are not already established and living in a wild state; or
- (3) Export any such species, or the dead body or parts thereof, from the State.

~~[(4) The prohibitions against the destruction of wild birds shall not apply to those introduced wild birds listed as injurious wildlife.]~~

(d) With respect to introduced wildlife, except as provided in subsection (e) or as permitted by the department, no person shall, or attempt to, release introduced wildlife.

(e) The prohibited activities in this section shall not apply to: ~~[authorized employees of the department, or enforcement agents and inspectors of the department of agriculture and United States Fish and Wildlife Service when acting in the course of their official duties, or persons authorized by the board or its authorized representative and as provided elsewhere in this chapter.]~~

- (1) Authorized employees of the department;
- (2) Enforcement agents, researchers, and inspectors of the department of agriculture and United States Fish and Wildlife Service when acting in the course of their official duties; or
- (3) Persons authorized by the board or its authorized representative and as provided elsewhere in this chapter. [Eff 3/22/82; am and comp 8/28/86; am and comp 3/2/98; am and comp] (Auth: HRS §§183D-8, 183D-61, 183D-62, 183D-63, 183D-64, 195D-3, 195D-4, 195D-5, 195D-6) (Imp: HRS §§183D-8, 183D-61, 183D-62, 183D-63, 183D-64, 195D-3, 195D-4, 195D-6)

§13-124-4 Scientific, propagation, and

Exhibit 2

educational permits. ~~[(a)]~~ Permits for collecting, possessing, killing, selling or offering for sale, and transporting ~~[threatened wildlife,]~~ indigenous wildlife, introduced wild birds, game birds, or game mammals may be issued by the board or its authorized representative for scientific or educational purposes including cultural activities, or for activities which will enhance the survival of the wildlife species.

~~[(b) Permits to take, possess, process, sell or offer for sale, transport, or export any endangered species of wildlife may be issued only for scientific purposes or to enhance the propagation or survival of the wildlife species, except permits to possess legally obtained endangered species may be issued for educational purposes which enhance the survival of that species.]~~ [Eff 3/22/82; am and comp 8/28/86; am and comp 3/2/98; am and comp] (Auth: HRS §§183D-6, 183D-61, 195D-3, 195D-4, 195D-6) (Imp: HRS §§183D-6, 183D-61, 195D-3, 195D-4, 195D-5, 195D-6)

§13-124-5 REPEALED.

[R 3/2/98]

§13-124-6 Permits for keeping indigenous wildlife, introduced wild birds, game birds, and game mammals. ~~[(a)]~~ Permits may be issued by the board or its authorized representative to qualified persons who apply in writing to maintain indigenous wildlife, introduced wild birds, game birds, or game mammals in captivity for the protection, treatment for injury or disease, propagation, and other purposes consistent with the preservation, protection, and conservation of the animals. [Eff 3/22/82; am and comp 8/28/86; am and comp 3/2/98; am and comp] (Auth: HRS §§183D-6, 183D-61, 195D-3, 195D-4, 195D-6) (Imp: HRS §§183D-6, 183D-61, 195D-3, 195D-4, 195D-6)

§13-124-7 Crop damage, nuisance, and threat to human health and safety permits. (a) [The] Provided

Exhibit 2

that no such permit shall be required on private land for game mammals when otherwise in compliance with chapter 123, the board or its authorized representative may issue permits to destroy or otherwise control game birds, game mammals, introduced wildlife, or introduced wild birds causing substantial damage to agricultural or aquacultural crops, indigenous plants or wildlife, or pose a threat to human health and safety under the following conditions:

- (1) An authorized agent of the department has investigated the complaint and is satisfied that substantial damage has occurred or is likely to occur;
 - ~~[(2) Permits to control game mammals and game birds on parcels larger than 300 acres, may be issued only when it has been determined that public hunting is not a reasonable and appropriate method of control;~~
 - ~~3~~ (2) Permits shall state the species and may specify the number to be destroyed and the method of control to be used. The permit may include other terms and conditions as may seem proper and applicable;
 - ~~4~~ (3) Permits for restricted use pesticides may be issued only after an integrated animal damage control plan has been submitted to and approved by an authorized agent of the department~~[-]~~; or
 - (4) When species of introduced wildlife are found to be generally harmful or destructive to agriculture or aquaculture, native plants or wildlife, or constituting a threat to human health or safety, the board or its authorized representative may authorize the destruction or control of the species in any area for a specified time period without requiring permits or reports.
- (b) The board or its authorized representative may issue permits to destroy or otherwise control indigenous wildlife other than threatened and endangered species, causing substantial damage to

Exhibit 2

agricultural or aquacultural crops, indigenous plants or wildlife, or pose a threat to human health and safety under the following conditions:

- (1) An authorized agent of the department has investigated the complaint and is satisfied that substantial damage has occurred or is likely to occur;
 - (2) Permits shall state the species to be destroyed or taken; the method of control to be used; the maximum number of individuals of each species to be destroyed or taken; and the disposition of individuals destroyed or taken. The permit shall include other terms and conditions as may seem proper and applicable [-]; and
 - (3) Permits to destroy indigenous wildlife shall be issued only after significant efforts to haze or non-lethally deter the pest animals have been attempted and proved ineffective.
- (c) Permittees shall submit monthly summary reports to the department on forms provided or facsimiles that include:
- (1) The common name of the target and non-target wildlife taken;
 - (2) The number of each wildlife species;
 - (3) The disposition of the wildlife; and
 - (4) Any other information required by the permit.
- (d) Failure to submit monthly reports is grounds for cancellation of permits by the board or its authorized representative.
- (e) No permit shall be issued or used for the destruction of any endangered or threatened species of wildlife.
- (f) Permits may only be amended or otherwise altered by the board or its authorized representative. A copy of the amendment and written approval must be attached to the permit.
- (g) ~~[When species of introduced wildlife are found to be generally harmful or destructive to agriculture~~

~~or aquaculture, native plants or wildlife, or constituting a threat to human health or safety, the board or its authorized representative may authorize the destruction or control of the species in any area for a specified time period without requiring permits or reports.]~~

~~(h)] No permit is required merely to scare or herd depredating wildlife other than endangered or threatened species of wildlife. [Eff 3/22/82; am and comp 8/28/86; am and comp 3/2/98; am and comp~~

~~] (Auth: HRS §§183D-61, 195D-3, 195D-4, 195D-5, 195D-6) (Imp: HRS §§183D-61, 195D-3, 195D-4, 195D-5, 195D-6)~~

~~[§13-124-7.1 Revocation of permits. Any permit issued pursuant to this Chapter shall be revocable for due cause and shall be nonassignable unless otherwise provided by law. Any person whose permit has been revoked shall not be eligible to apply for another permit until the expiration of two years from the date of revocation.] [Eff 3/2/98; R]~~
~~(Auth: HRS §§195D-3, 195D-4, 195D-6) Imp: HRS §§195D-8, 195D-9)~~

~~[§13-124-7.2 Compliance with laws. All persons receiving permits under this chapter shall comply with all federal, state, and county laws, rules, and required permits or licenses.] [Eff 3/2/98; R]~~
~~(Auth: HRS §§195D-3, 195D-4, 195D-6) Imp: HRS §§195D-8, 195D-9)~~

§13-124-8 Penalty. (a) Any person violating any part of this subchapter shall be ~~[penalized as provided by law.]~~ guilty of a petty misdemeanor, and upon conviction thereof, shall be punished as follows:

- (1) For a first conviction, by a mandatory fine of not less than \$100, or imprisonment of not more than thirty days, or both;

(2) For a second conviction within five years of a previous conviction, by a mandatory fine of not less than \$500, or by imprisonment of not more than thirty days, or both, and all firearms used in the commission of such violations shall be considered contraband to be forfeited to and disposed of by the State; and

(3) For a third or subsequent conviction within five years of the first two or more convictions, by a mandatory fine of not less than \$1,000, or by imprisonment of not more than thirty days, or both, and all firearms used in the commission of such violations shall be considered contraband to be forfeited to and disposed of by the State.

(b) In addition to any other penalty imposed under this section, a mandatory fine of \$100 shall be levied for each bird illegally taken under this chapter and a mandatory fine of \$500 shall be levied for each mammal illegally taken under this chapter.

(c) The disposition of fines collected for violations of the provisions concerning wildlife conservation shall be subject to HRS section 183D-10.5.

(d) Except as otherwise provided by law, the board is authorized to set, charge, and collect administrative fines or bring legal action to recover administrative costs of the department or payment for damages or for the cost to correct damages resulting from a violation of HRS subtitle 4 of title 12 or any rule adopted thereunder. The administrative fines shall be as follows:

(1) For a first violation, by a fine of not more than \$10,000;

(2) For a second violation within five years of a previous violation, by a fine of not more than \$15,000; and

(3) For a third or subsequent violation within five years of the last violation, by a fine of not more than \$25,000.

Exhibit 2

(e) In addition, an administrative fine of up to \$5,000 may be levied for each specimen of wildlife taken, killed, injured, or damaged in violation of HRS subtitle 4 of title 12 or any rule adopted thereunder.

(f) Any criminal action against a person for any violation of HRS subtitle 4 of title 12 or any rule adopted thereunder shall not be deemed to preclude the State from pursuing civil legal action to recover administrative fines and costs against that person. Any civil legal action against a person to recover administrative fines and costs for any violation of HRS subtitle 4 of title 12 or any rule adopted thereunder shall not be deemed to preclude the State from pursuing any criminal action against that person.

(g) Any equipment, article, instrument, aircraft, vehicle, vessel, business record or natural resource used or taken in violation of the provisions of this chapter may be seized and subject to forfeiture as provided by HRS section 199-7 and chapter 712A. [Eff 3/22/82; am and comp 8/28/86; comp 3/2/98; am and comp] (Auth: HRS §§183D-3, 183D-5, 183D-10.5, 183D-12, 199-7, 712A-4, 712A-6) (Imp: HRS §§183D-3, 183D-5, 183D-10.5, 183D-12, 199-7, 712A-4, 712A-6)

~~§13-124-9 Exemption. This chapter shall not apply to any activity involving indigenous, endangered, or threatened wildlife which was held in captivity, or in a controlled environment on May 10, 1975; provided that the purposes of the holding were not contrary to the purposes of chapter 195D, HRS, and that the wildlife were not held for sale or resale.]~~
~~[Eff and comp 8/28/86; am and comp 3/2/98; R~~
~~] (Auth: HRS §§183D-61, 195D-3, 195D-4, 195D-6)~~
~~(Imp: HRS §§183D-61, 195D-3, 195D-4, 195D-6)~~

~~§13-124-10 Severability. These rules are declared to be severable and if any portion or the application thereof to any person or property is held~~

~~invalid for any reason, the validity of the remainder of these rules or the application of the remainder to other persons or property shall not be affected.] [Eff 3/2/98; R [] (Auth: HRS §§183D-2, 183D-3) (Imp: HRS §§183D-2, 183D-3)~~

SUBCHAPTER 3

ENDANGERED AND THREATENED WILDLIFE

§13-124-11 Prohibited activities. (a)
With respect to endangered and threatened species of
wildlife except as provided in subsection (c) or as
permitted by the department, no person shall or
attempt to:

- (1) Take, possess, process, sell, offer for sale, or transport any such species, any young or egg, or the dead body or skin thereof within the State; or
- (2) Export any such species, or any young or egg, or the dead body or parts thereof, from the State.

(b) No person shall remove, damage, or disturb the nest of any endangered or threatened species except as provided in subsection (c) or as permitted by the department.

(c) The prohibited activities in this section shall not apply to:

- (1) Authorized employees of the department;
- (2) Enforcement agents, researchers, and inspectors of the department of agriculture and United States Fish and Wildlife Service when acting in the course of their official duties; or
- (3) Persons authorized by the board or its authorized representative and as provided elsewhere in this chapter.[Eff and comp

§§183D-8, 183D-61, 183D-64, 195D-3, 195D-4, 195D-5, 195D-6) (Imp: HRS §§183D-8, 183D-61, 183D-64, 195D-3, 195D-4, 195D-5, 195D-6)

§13-124-12 Scientific, propagation, and educational permits. (a) Permits for collecting, possessing, killing, selling or offering for sale, and transporting threatened wildlife may be issued by the board or its authorized representative for scientific or educational purposes including cultural activities, or for activities which will enhance the survival of the wildlife species.

(b) Permits to take, possess, process, sell or offer for sale, transport, or export any endangered species of wildlife may be issued only for scientific purposes or to enhance the propagation or survival of the wildlife species, except permits to possess legally obtained endangered species may be issued for educational purposes which enhance the survival of that species. [Eff and comp] (Auth: HRS §§183D-6, 183D-61, 195D-3, 195D-4, 195D-5, 195D-6) (Imp: HRS §§183D-6, 183D-61, 195D-3, 195D-4, 195D-5, 195D-6)

§13-124-13 Penalty. (a) Any person who violates any of the provisions of this subchapter shall be guilty of a misdemeanor and shall be punished as follows:

- (1) For a first offense by a fine of not less than \$250 or by imprisonment of not more than one year, or both; and
- (2) For a second or subsequent offense within five years of a previous conviction by a fine of not less than \$500 or by imprisonment of not more than one year, or both.

(b) In addition to the above penalties, except for violations under approved habitat conservation plans under section HRS 195D-21 or approved safe harbor agreements under section HRS 195D-22 as determined by the board, a fine of \$5,000 for each specimen of a threatened species and \$10,000 for each specimen of an endangered species intentionally,

knowingly, or recklessly killed or removed from its original growing location, shall be levied against the convicted person.

(c) The disposition of fines collected for violations of the provisions concerning wildlife conservation shall be subject to HRS 183D-10.5.

(d) Except as otherwise provided by law, the board or its authorized representative by proper delegation is authorized to set, charge, and collect administrative fines or bring legal action to recover administrative fees and costs as documented by receipts or affidavit, including attorneys' fees and costs, or bring legal action to recover administrative fines, fees, and costs, including attorneys' fees and costs, or payment for damages or for the cost to correct damages resulting from a violation of this chapter. The administrative fines shall be as follows:

- (1) For a first violation, a fine of not more than \$2,500;
- (2) For a second violation within five years of a previous violation, a fine of not more than \$5,000; and
- (3) For a third or subsequent violation within five years of the last violation, a fine of not more than \$10,000.

(e) In addition, an administrative fine of up to \$5,000 may be levied for each specimen of wildlife or plant taken, killed, injured, or damaged in violation of this chapter.

(f) Any criminal action against a person for any violation of this chapter shall not be deemed to preclude the State from pursuing civil legal action to recover administrative fines and costs against that person. Any civil legal action against a person to recover administrative fines and costs for any violation of this chapter shall not be deemed to preclude the State from pursuing any criminal action against that person.

(g) Any equipment, article, instrument, aircraft, vehicle, vessel, business record or natural resource used or taken in violation of the provisions

Exhibit 2

of this chapter may be seized and subject to forfeiture as provided by HRS section 199-7 and chapter 712A." [Eff and comp] (Auth: HRS §§195D-3, 195D-4, 195D-6, 195D-7, 195D-8, 195D-9, 199-7, 712A-4, 712A-6) (Imp: HRS §§195D-3, 195D-4, 195D-6, 195D-7, 195D-8, 195D-9, 199-7, 712A-4, 712A-6)

2. Material, except source notes, to be repealed is bracketed and struck through. New material is underscored.

3. Additions to update source notes to reflect these amendments and compilation are not underscored.

4. These amendments to and compilation of chapter 124, Hawaii Administrative Rules shall take effects ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules, drafted in the Ramseyer format pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on (date) and filed with the Office of the Lieutenant Governor.

WILLIAM J. AILA, JR.

Chairperson of the Board of
Land and Natural Resources

APPROVED AS TO FORM

Deputy Attorney General

EXHIBIT 1 - Chapter 13-124
[2/1/97] 11/1/14

List of Species of Indigenous Wildlife in Hawaii

Note: This list is demonstrative of this category but shall not be construed as exhaustive.

SCIENTIFIC NAME	STATUS
COMMON NAME	
HAWAIIAN NAME	

*	Endemic to Hawaiian Islands
X	Breeding population
R	Regular migrant
R+	Uncommon but regular sightings
M	Regular winter migrant
O	Considered extinct

Indigenous Reptiles

Careta caretta Loggerhead Sea Turtle	R+
Chelonia myda agassizi Pacific Green Sea Turtle Honu	X
Dermochelys coriacea schlegelii Pacific Leatherback Sea Turtle	X
Eretmochelys imbricate bissa Pacific Hawksbill Turtle Ea	R+
Lepidochelys olivacea Olive (Pacific) Ridley Sea Turtle	R+
Pelamis platurus Yellow-bellied Sea Snake	R+

Indigenous Invertebrates

Achatinella spp. Oahu Tree Snails	* X
--------------------------------------	-----

Exhibit 2

Indigenous Birds

Acrocephalus familiaris familiaris Laysan Millerbird	* O
Acrocephalus familiaris kingi Nihoa Millerbird	* X
Anas acuta Northern Pintail Koloa māpu	M
Anas americana American Wigeon	M
Anas clypeata Northern Shoveler Koloa mohā	M
Anas laysanensis Laysan Duck	* X
Anas platyrhynchos Mallard Duck * Note that mallards are both migratory and introduced. Status of an individual will be determined as the need arises.	M
Anas wyvilliana Hawaiian Duck Koloa maoli	* X
Anous minutus melanogenys Black (Hawaiian, White-capped) Noddy Noio	X
Anous stolidus pileatus Brown (Common) Noddy Noio-kōhā	X
Arenaria interpres Ruddy Turnstone 'Akekeke	M
Asio flammeus sandwichensis Short-eared (Hawaiian) Owl Pueo	* X
Aythya affinis Lesser Scaup	M
Branta sandvicensis Hawaiian Goose Nēnē	* X
Bulweria bulwerii Bulwer Petrel	X

Exhibit 2

'Ou	
Buteo solitarius Hawaiian Hawk 'Io	* X
Calidris alba Sanderling Huna kai	M
Chaetoptila angustipluma Kioea	* O
Chasiempis ibidis Oahu 'Elepaio 'Elepaio	* X
Chasiempis sandwichensis Hawaii 'Elepaio 'Elepaio	* X
Chasiempis sclateri Kauai 'Elepaio 'Elepaio	* X
Chloridops kona Kona (Grosbeak) Finch	* O
Ciridops anna 'Ula-'ai-hāwane	* O
Corvus hawaiiensis Hawaiian Crow 'Alalā	* X
Diomedea immutabilis Laysan Albatross Mōli	X
Diomedea nigripes Black footed Albatross Ka'upu	X
Drepanis funerea Black Mamo Hoa or Oo-nuku-umu	* O
Drepanis pacifica Hawaii Mamo Mamo	* O
Fregata minor palmerstoni Great Frigatebird 'Iwa	X
Fulica alai American (Hawaiian) Coot 'Alae ke'oke'o	* X
Gallinula chloropus sandvicensis Common Moorhen (Hawaiian Gallinule)	* X

Exhibit 2

'Alae 'ula	
Gygis alba rothschildi White (Fairy) Tern Manu o ku	X
Hemignathus lanaiensis Lanai Akialoa 'Akialoa	* O
Hemignathus ellisianus Oahu 'Akialoa 'Akialoa	* O
Hemignathus flavus Oahu 'Amakihi 'Amakihi	* X
Hemignathus kauaiensis Kauai 'Amakihi 'Amakihi	* X
Hemignathus lucidus affinus Maui Nuku pu'u Nuku pu'u	* X
Hemignathus lucidus hanapepe Kauai Nuku pu'u Nuku pu'u	* X
Hemignathus lucidus lucidus Oahu Nuku pu'u Nuku pu'u	* O
Hemignathus munroi 'Akiapōlā'au	* X
Hemignathus obscurus Hawaii 'Akialoa 'Akialoa	* O
Hemignathus parvus 'Anianiau (Lesser 'Amakihi) 'Anianiau	* X
Hemignathus sagittirostris Greater 'Amakihi	* O
Hemignathus stejnegeri Kauai 'Akialoa 'Akialoa	* X
Hemignathus virens virens Hawaii 'Amakihi 'Amakihi	* X
Hemignathus virens wilsoni Maui 'Amakihi 'Amakihi	* X
Heteroscelus incanus	M

Exhibit 2

Wandering Tattler 'Ūlili	
Himantopus mexicanus knudseni Black-necked (Hawaiian) Stilt Āe'o	* X
Himatione sanguinea 'Apapane	* X
Himatione sanguinea freethii Laysan Honeycreeper	* O
Loxioides bailleui Palila	* X
Loxops caeruleirostris Kauai 'Ākepa 'Akeke'e	* X
Loxops coccineus coccineus Hawaii 'Ākepa 'Akepeu'ie	* X
Loxops coccineus ochraceus Maui 'Ākepa 'Akepeu'ie	* X
Loxops coccineus rufus Oahu 'Ākepa 'Akepeu'ie	* O
Loxops mana Hawaii Creeper	* X
Melamprosops phaeosoma Po'ouli	* X
Moho apicalis Oahu 'Ō'ō 'Ō'ō	* O
Moho bishopi Molokai 'Ō'ō 'Ō'ō	* O
Moho braccatus Kauai 'Ō'ō 'Ō'ō'a'a	* X
Moho nobilis Hawaii 'Ō'ō 'Ō'ō	* O
Myadestes lanaiensis lanaiensis Lanai Thrush Oloma'o	* O
Myadestes lanaiensis rutha Molokai Thrush Oloma'o	* X

Exhibit 2

Myadestes myadestinus Kauai Thrush Kāma'o	* X
Myadestes oahuensis Oahu Thrush 'Amaui	* O
Myadestes obscurus Hawaii Thrush 'Oma'o	* X
Myadestes palmeri Small Kauai Thrush Puaiohi	* X
Numenius tahitiensis Bristle-thighed Curlew Kioea	M
Nycticorax nycticorax hoactli Black-crowned Night-heron 'Auku'u	X
Oceadroma castro cryptoleucura Band-rumped (Hawaiian, Harcourt) Storm-petrel 'Ake'ake	* X
Oceandroma tristrami Sooty (Tristram's) Storm-petrel	X
Oreomystis bairdi Kauai Creeper 'Akikiki	* X
Palmeria dolei Crested Honeycreeper 'Ākohekohe	* X
Paroreomyza flammea Molokai Creeper Kakawahie	* X
Paroreomyza maculata Oahu Creeper 'Alauwahio	* X
Paroreomyza montana montana Lanai Creeper 'Alauwahio	* O
Paroreomyza montana newtoni Maui Creeper 'Alauwahio	* X
Phaethon lepturus dorotheae White-tailed Tropicbird Koa'e kea	X
Phaethon rubricuada rothschildi	X

Exhibit 2

Red-tailed Tropicbird Koa'e 'ula	
Pluvialis dominica Lesser (Pacific, American) Golden Plover Kōlea	M
Pluvialis squatarola Black-bellied Plover	M
Porzana palmeri Laysan Rail	* O
Porzana sandwichensis Hawaiian Rail Moho	* O
Procelsterna cerulea saxatilis Blue-gray Noddy	X
Pseudonestor xanthophrys Maui Parrotbill	* X
Psittirostra psittacea 'Ō'ū	* X
Pterodroma hypoleuca hypoleuca Bonin Petrel	X
Pterodroma sandwichensis Hawaiian Petrel 'Ua'u	* X
Puffinus nativitatis Christmas Shearwater	X
Puffinus newelli Newell's Shearwater 'A'o	* X
Puffinus pacificus chlororhynchus Wedge-tailed Shearwater 'Ua'u kani	X
Rhodacanthus flaviceps Lesser Koa Finch	* O
Rhodacanthus palmeri Greater Koa Finch Hopue	* O
Sterna fuscata oahuensis Sooty tern 'Ewa'ewa	X
Sterna lunata Gray-backed Tern Pakalakala	X
Sula dactylatra personata Masked (Blue-faced) Booby 'Ā	X

Exhibit 2

Sula leucogaster plotus Brown Booby 'Ā	X
Sula sula rubripes Red-footed Booby 'Ā	X
Telespiza cantans Laysan Finch	* X
Telespiza ultima Nihoa Finch	* X
Vestiaria coccinea 'I'iwi	* X

Exhibit 2

SCIENTIFIC NAME	STATUS
COMMON NAME	
HAWAIIAN NAME	

*	Endemic to Hawaiian Islands
X	Breeding population
R	Regular migrant
R+	Uncommon but regular sightings
M	Regular winter migrant
O	Considered extinct

Indigenous Mammals

Balaenoptera acutorostrata Minke Whale	M
Balaenoptera physalus Fin Whale	R+
Feresa attenuata Pygmy Killer Whale	R
Globicephala macrorhynchus Pilot Whale	R
Kogia breviceps Pygmy Sperm Whale	R+
Lasiurus cinereus semotus Hawaiian (Hoary) Bat 'Ope'ape'a	* X
Megaptera novaengliae Humpback Whale Koholā	M
Mesoplodon densirostris Densebeaked Whale	R+
Monachus schauinslandi Hawaiian Monk Seal 'Īlio-holo-i-kauaua	* X
Orcinus orca Killer Whale	R+
Peponocephala electra Melon-headed Whale	R
Physeter catodon Sperm Whale Palaoa, Koholā kepama	M
Pseudorca crassidens False Killer Whale	R

Exhibit 2

Stenella attenuate Spotted Dolphin Nai'a	X
Stenella coeruleoalba Striped Dolphin	R+
Stenella longirostris Spinner Dolphin Nai'a	X
Steno bredanensis Rough-toothed Dolphin Nai'a	X
Tursiops gilli Pacific Bottlenose Dolphin Nai'a	X

Exhibit 3

Rules Amending Title 13
Hawaii Administrative Rules

December 12, 2014

1. Chapter 124 of Title 13, Hawaii Administrative Rules, entitled "Indigenous Wildlife, Endangered and Threatened Wildlife, and Introduced Wild Birds" is amended and compiled to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

SUBTITLE 5

FORESTRY AND WILDLIFE

PART 2

WILDLIFE

CHAPTER 124

INDIGENOUS WILDLIFE, ENDANGERED AND THREATENED
WILDLIFE, INJURIOUS WILDLIFE, INTRODUCED WILD BIRDS,
AND INTRODUCED WILDLIFE

Subchapter 1 General Provisions

\$13-124-1	Purpose
\$13-124-2	Definitions
\$13-124-2.1	Revocation of permits
\$13-124-2.2	Compliance with laws
\$13-124-2.3	Exemption
\$13-124-2.4	Severability

Exhibit 3

Subchapter 2 Indigenous, Injurious, Introduced Wild Birds, and Introduced Wildlife

- §13-124-3 Prohibited activities
- §13-124-4 Scientific, propagation, and
educational permits
- §13-124-5 Repealed
- §13-124-6 Permits for keeping indigenous wildlife,
introduced wild birds, game birds, and
game mammals
- §13-124-7 Crop damage, nuisance, and threat to
human health and safety permits
- §13-124-8 Penalty

Subchapter 3 Endangered and Threatened Wildlife

- §13-124-11 Prohibited activities
- §13-124-12 Scientific, propagation, and
educational permits
- §13-124-13 Penalty

Historical Note: Chapter 13-124, Hawaii
Administrative Rules, is based substantially upon
Regulation 18 of the Division of Fish and Game,
Department of Land and Natural Resources. [Eff 8/10/53;
am 10/10/55; am 3/28/58 and ren Regulation 6; am
9/8/73; R 3/22/82]

SUBCHAPTER 1

GENERAL PROVISIONS

§13-124-1 Purpose. The purpose of this
chapter is to conserve, manage, protect, and enhance
indigenous wildlife; and manage introduced wild
birds. [Eff 3/22/82; am and comp 8/28/86; am and comp
3/2/98; comp] (Auth: HRS §§ 183D-2,
183D-3, 183D-61, 195D-3, 195D-4, 195D-6) (Imp: HRS §§

Exhibit 3

183D-2, 183D-3, 195D-3, 195D-4, 195D-6)

§13-124-2 Definitions. As used in this chapter unless the context requires otherwise:

"Agriculture" means the production of crops which are planted, cultivated, and harvested for food, ornamental, grazing, cultural, medicinal or forest purposes.

"Aquaculture" means the farming or ranching of aquatic life in a controlled salt, brackish, or fresh water environment; provided that the farm or ranch is on or directly adjacent to land.

"Board" means the board of land and natural resources.

"Crops" means a plant or animal or product thereof that can be grown and harvested for profit or subsistence.

"Cultural use" means use for traditional native Hawaiian practices.

"Department" means the department of land and natural resources.

"Domestic animal" means any of various animals which have been domesticated by humans in a condition mainly dependent on humans.

"Endangered wildlife" means any species, subspecies, or population of wildlife that has been officially listed by the federal government as endangered and any species, subspecies, or population of indigenous wildlife listed in, but not limited to the exhibit entitled "Exhibit 2, Chapter 13-124, List of Species of Endangered Wildlife in Hawaii 11/1/14" and as updated, which is located at the end of this chapter and incorporated by reference.

"Export" means shipment to any point outside the State.

"Feral" means having escaped or been released from domestication and reverted to a wild state.

"Game birds" means those birds designated by statute or rule for hunting.

"Game mammals" means those mammals designated by statute or rule for hunting.

Exhibit 3

"Indigenous wildlife" means any species or subspecies of animal, including migratory forms, occurring or living naturally in Hawaii without having been brought to Hawaii by humans and listed in, but not limited to, the exhibit entitled "Exhibit 1, Chapter 13-124, Indigenous Wildlife of Hawaii, 11/1/14" and as updated, which is located at the end of this chapter and incorporated by reference.

"Injurious wildlife" means any species or subspecies of animal which is known to be harmful to agriculture, aquaculture, indigenous wildlife or plants, or constitute a nuisance or health hazard and is listed in the exhibit entitled "Exhibit 5, Chapter 13-124, List of Species of Injurious Wildlife in Hawaii, 11/1/14" and as updated, which is located at the end of this chapter and incorporated by reference; and as established and designated by the board as injurious wildlife.

"Introduce" means an act of releasing wildlife into a habitat to which it is not indigenous.

"Introduced wild birds" means any non-domesticated species of birds introduced or imported to Hawaii by humans and living in a wild state other than game birds, including, but not limited to, species listed in the exhibit entitled "Exhibit 4, Chapter 13-124, Introduced Wild Birds Other Than Game Birds Which Have Become Established in the Wild, 11/1/14" and as updated, which is located at the end of this chapter and incorporated by reference.

"Introduced wildlife" means any wildlife introduced or imported to Hawaii by humans.

"Non-domesticated animal" means any of various animals that have not been domesticated by humans and that are in a condition mainly independent of humans.

"Plant" means any member of the plant kingdom, including seeds, roots, and other parts thereof.

"Release" means to free an animal from confinement or restraint.

"Take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, possess, or collect endangered or threatened species of wildlife, or to attempt to engage in any such conduct.

Exhibit 3

"Threatened wildlife" means any species, subspecies, or population of wildlife that has been officially listed by the federal government as threatened and any species, subspecies, or population of indigenous wildlife listed in, but not limited to, the exhibit entitled "Exhibit 3, Chapter 13-124, List of Species of Threatened Wildlife in Hawaii, 11/1/14" and as updated, which is located at the end of this chapter and incorporated by reference.

"Wildlife" means any member of any non-domesticated species of the animal kingdom, whether reared in captivity or not, including any mammal, fish, bird, amphibian, reptile, mollusk, crustacean, arthropod, or other invertebrate, and includes any part, product, egg, or offspring thereof, or the dead body or parts thereof. [Eff 3/22/82; am and comp 8/28/86; am and comp 3/2/98; am and comp]
(Auth: HRS §§ 183D-2, 183D-3, 183D-31, 183D-51, 183D-61, 195D-3, 195D-4, 195D-6) (Imp: HRS §§ 183D-2, 183D-3, 183D-31, 183D-51, 183D-61, 195D-3, 195D-4, 195D-6)

§13-124-2.1 Revocation of permits. Any permit issued pursuant to this chapter shall be revocable for good cause and shall be nonassignable unless otherwise provided by law. Any person whose permit has been revoked shall not be eligible to apply for another permit until the expiration of two years from the date of revocation. [Eff and comp] (Auth: HRS §§183D-2, 183D-3, 183D-6, 183D-61, 195D-3, 195D-4, 195D-5, 195D-6) (Imp: HRS §§183D-2, 183D-3, 183D-6, 183D-61, 195D-3, 195D-4, 195D-5, 195D-6, 195D-8, 195D-9)

Historical note: §13-124-2.1 is based substantially upon §13-124-7.1. [Eff 3/2/98; R]

§13-124-2.2 Compliance with laws. All persons applying for and receiving permits under this chapter shall comply with all federal, state, and

Exhibit 3

county laws, rules, and required permits or licenses.
[Eff and comp] (Auth: HRS §§183D-3, 183D-6, 183D-61, 195D-3, 195D-4, 195D-5, 195D-6) (Imp: HRS §§183D-3, 183D-6, 183D-61, 195D-3, 195D-4, 195D-5, 195D-8, 195D-9)

Historical note: §13-124-2.2 is based substantially upon §13-124-7.2. [Eff 3/2/98; R]

§13-124-2.3 Exemption. This chapter shall not apply to any activity involving indigenous, endangered, or threatened wildlife which was held in captivity, or in a controlled environment on May 10, 1975; provided that the purposes of the holding were not contrary to the purposes of chapter 195D, HRS, and that the wildlife were not held for sale or resale. [Eff and comp] (Auth: HRS §§183D-61, 195D-3, 195D-4, 195D-6) (Imp: HRS §§183D-61, 195D-3, 195D-4, 195D-6)

Historical note: §13-124-2.3 is based substantially upon §13-124-9. [Eff and comp 8/28/86; am and comp 3/2/98; R]

§13-124-2.4 Severability. These rules are declared to be severable and if any portion or the application thereof to any person or property is held invalid for any reason, the validity of the remainder of these rules or the application of the remainder to other persons or property shall not be affected. [Eff and comp] (Auth: HRS §§183D-2, 183D-3, 195D-6, 195D-10) (Imp: HRS §§183D-2, 183D-3, 195D-6, 195D-10)

Historical note: §13-124-2.4 is based substantially upon §13-124-10. [Eff 3/2/98; R]

SUBCHAPTER 2

INDIGENOUS, INJURIOUS, INTRODUCED WILD BIRDS, AND
INTRODUCED WILDLIFE

§13-124-3 Prohibited activities. (a) With respect to indigenous wildlife and introduced wild birds, and except as provided in subsection (e) or as permitted by the department, no person shall, or attempt to:

- (1) Catch, possess, injure, kill, destroy, sell, offer for sale, or transport any such species, or any young or egg, or the dead body or skin thereof; or
- (2) Export any such species, or any young or egg, or the dead body or skin thereof from the State.

The prohibitions against the destruction of wild birds shall not apply to those introduced wild birds listed as injurious wildlife.

(b) No person shall remove, damage, or disturb the nest of any indigenous wildlife except as provided in subsection (e) or as permitted by the department.

(c) With respect to injurious wildlife, except as provided in subsection (e) or as permitted by the department, no person shall, or attempt to:

- (1) Release injurious wildlife into the wild;
- (2) Transport live injurious wildlife to islands or locations within the State where they are not already established and living in a wild state; or
- (3) Export any such species, or the dead body or parts thereof, from the State.

(d) With respect to introduced wildlife, except as provided in subsection (e) or as permitted by the department, no person shall, or attempt to, release introduced wildlife.

(e) The prohibited activities in this section shall not apply to:

- (1) Authorized employees of the department;

Exhibit 3

- (2) Enforcement agents, researchers, and inspectors of the department of agriculture and United States Fish and Wildlife Service when acting in the course of their official duties; or
- (3) Persons authorized by the board or its authorized representative and as provided elsewhere in this chapter. [Eff 3/22/82; am and comp 8/28/86; am and comp 3/2/98; am and comp] (Auth: HRS §§183D-8, 183D-61, 183D-62, 183D-63, 183D-64, 195D-3, 195D-4, 195D-5, 195D-6) (Imp: HRS §§183D-8, 183D-61, 183D-62, 183D-63, 183D-64, 195D-3, 195D-4, 195D-6)

§13-124-4 Scientific, propagation, and educational permits. Permits for collecting, possessing, killing, selling or offering for sale, and transporting indigenous wildlife, introduced wild birds, game birds, or game mammals may be issued by the board or its authorized representative for scientific or educational purposes including cultural activities, or for activities which will enhance the survival of the wildlife species. [Eff 3/22/82; am and comp 8/28/86; am and comp 3/2/98; am and comp] (Auth: HRS §§183D-6, 183D-61, 195D-3, 195D-4, 195D-6) (Imp: HRS §§183D-6, 183D-61, 195D-3, 195D-4, 195D-5, 195D-6)

§13-124-5 REPEALED. [R 3/2/98]

§13-124-6 Permits for keeping indigenous wildlife, introduced wild birds, game birds, and game mammals. Permits may be issued by the board or its authorized representative to qualified persons who apply in writing to maintain indigenous wildlife, introduced wild birds, game birds, or game mammals in captivity for the protection, treatment for injury or disease, propagation, and other purposes consistent

Exhibit 3

with the preservation, protection, and conservation of the animals. [Eff 3/22/82; am and comp 8/28/86; am and comp 3/2/98; am and comp] (Auth: HRS §§183D-6, 183D-61, 195D-3, 195D-4, 195D-6) (Imp: HRS §§183D-6, 183D-61, 195D-3, 195D-4, 195D-6)

§13-124-7 Crop damage, nuisance, and threat to human health and safety permits. (a) Provided that no such permit shall be required on private land for game mammals when otherwise in compliance with chapter 123, the board or its authorized representative may issue permits to destroy or otherwise control game birds, game mammals, introduced wildlife, or introduced wild birds causing substantial damage to agricultural or aquacultural crops, indigenous plants or wildlife, or pose a threat to human health and safety under the following conditions:

- (1) An authorized agent of the department has investigated the complaint and is satisfied that substantial damage has occurred or is likely to occur;
 - (2) Permits shall state the species and may specify the number to be destroyed and the method of control to be used. The permit may include other terms and conditions as may seem proper and applicable;
 - (3) Permits for restricted use pesticides may be issued only after an integrated animal damage control plan has been submitted to and approved by an authorized agent of the department; or
 - (4) When species of introduced wildlife are found to be generally harmful or destructive to agriculture or aquaculture, native plants or wildlife, or constituting a threat to human health or safety, the board or its authorized representative may authorize the destruction or control of the species in any area for a specified time period without requiring permits or reports.
- (b) The board or its authorized representative

Exhibit 3

may issue permits to destroy or otherwise control indigenous wildlife other than threatened and endangered species, causing substantial damage to agricultural or aquacultural crops, indigenous plants or wildlife, or pose a threat to human health and safety under the following conditions:

- (1) An authorized agent of the department has investigated the complaint and is satisfied that substantial damage has occurred or is likely to occur;
 - (2) Permits shall state the species to be destroyed or taken; the method of control to be used; the maximum number of individuals of each species to be destroyed or taken; and the disposition of individuals destroyed or taken. The permit shall include other terms and conditions as may seem proper and applicable; and
 - (3) Permits to destroy indigenous wildlife shall be issued only after significant efforts to haze or non-lethally deter the pest animals have been attempted and proved ineffective.
- (c) Permittees shall submit monthly summary reports to the department on forms provided or facsimiles that include:
- (1) The common name of the target and non-target wildlife taken;
 - (2) The number of each wildlife species;
 - (3) The disposition of the wildlife; and
 - (4) Any other information required by the permit.
- (d) Failure to submit monthly reports is grounds for cancellation of permits by the board or its authorized representative.
- (e) No permit shall be issued or used for the destruction of any endangered or threatened species of wildlife.
- (f) Permits may only be amended or otherwise altered by the board or its authorized representative. A copy of the amendment and written approval must be

attached to the permit.

(g) No permit is required merely to scare or herd depredating wildlife other than endangered or threatened species of wildlife. [Eff 3/22/82; am and comp 8/28/86; am and comp 3/2/98; am and comp

] (Auth: HRS §§183D-61, 195D-3, 195D-4, 195D-5, 195D-6) (Imp: HRS §§183D-61, 195D-3, 195D-4, 195D-5, 195D-6)

§13-124-8 Penalty. (a) Any person violating any part of this subchapter shall be guilty of a petty misdemeanor, and upon conviction thereof, shall be punished as follows:

- (1) For a first conviction, by a mandatory fine of not less than \$100, or imprisonment of not more than thirty days, or both;
- (2) For a second conviction within five years of a previous conviction, by a mandatory fine of not less than \$500, or by imprisonment of not more than thirty days, or both, and all firearms used in the commission of such violations shall be considered contraband to be forfeited to and disposed of by the State; and
- (3) For a third or subsequent conviction within five years of the first two or more convictions, by a mandatory fine of not less than \$1,000, or by imprisonment of not more than thirty days, or both, and all firearms used in the commission of such violations shall be considered contraband to be forfeited to and disposed of by the State.

(b) In addition to any other penalty imposed under this section, a mandatory fine of \$100 shall be levied for each bird illegally taken under this chapter and a mandatory fine of \$500 shall be levied for each mammal illegally taken under this chapter.

(c) The disposition of fines collected for violations of the provisions concerning wildlife conservation shall be subject to HRS section 183D-10.5.

Exhibit 3

(d) Except as otherwise provided by law, the board is authorized to set, charge, and collect administrative fines or bring legal action to recover administrative costs of the department or payment for damages or for the cost to correct damages resulting from a violation of HRS subtitle 4 of title 12 or any rule adopted thereunder. The administrative fines shall be as follows:

- (1) For a first violation, by a fine of not more than \$10,000;
- (2) For a second violation within five years of a previous violation, by a fine of not more than \$15,000; and
- (3) For a third or subsequent violation within five years of the last violation, by a fine of not more than \$25,000.

(e) In addition, an administrative fine of up to \$5,000 may be levied for each specimen of wildlife taken, killed, injured, or damaged in violation of HRS subtitle 4 of title 12 or any rule adopted thereunder.

(f) Any criminal action against a person for any violation of HRS subtitle 4 of title 12 or any rule adopted thereunder shall not be deemed to preclude the State from pursuing civil legal action to recover administrative fines and costs against that person. Any civil legal action against a person to recover administrative fines and costs for any violation of HRS subtitle 4 of title 12 or any rule adopted thereunder shall not be deemed to preclude the State from pursuing any criminal action against that person.

(g) Any equipment, article, instrument, aircraft, vehicle, vessel, business record or natural resource used or taken in violation of the provisions of this chapter may be seized and subject to forfeiture as provided by HRS section 199-7 and chapter 712A. [Eff 3/22/82; am and comp 8/28/86; comp 3/2/98; am and comp] (Auth: HRS §§183D-3, 183D-5, 183D-10.5, 183D-12, 199-7, 712A-4, 712A-6) (Imp: HRS §§183D-3, 183D-5, 183D-10.5, 183D-12, 199-7, 712A-4, 712A-6)

SUBCHAPTER 3

ENDANGERED AND THREATENED WILDLIFE

§13-124-11 Prohibited activities. (a)

With respect to endangered and threatened species of wildlife except as provided in subsection (c) or as permitted by the department, no person shall or attempt to:

- (1) Take, possess, process, sell, offer for sale, or transport any such species, any young or egg, or the dead body or skin thereof within the State; or
- (2) Export any such species, or any young or egg, or the dead body or parts thereof, from the State.

(b) No person shall remove, damage, or disturb the nest of any endangered or threatened species except as provided in subsection (c) or as permitted by the department.

(c) The prohibited activities in this section shall not apply to:

- (1) Authorized employees of the department;
- (2) Enforcement agents, researchers, and inspectors of the department of agriculture and United States Fish and Wildlife Service when acting in the course of their official duties; or
- (3) Persons authorized by the board or its authorized representative and as provided elsewhere in this chapter. [Eff and comp

] (Auth: HRS

§§183D-8, 183D-61, 183D-64, 195D-3, 195D-4, 195D-5, 195D-6) (Imp: HRS §§183D-8, 183D-61, 183D-64, 195D-3, 195D-4, 195D-5, 195D-6)

§13-124-12 Scientific, propagation, and educational permits. (a) Permits for collecting, possessing, killing, selling or offering for sale, and transporting threatened wildlife may be issued by the

Exhibit 3

board or its authorized representative for scientific or educational purposes including cultural activities, or for activities which will enhance the survival of the wildlife species.

(b) Permits to take, possess, process, sell or offer for sale, transport, or export any endangered species of wildlife may be issued only for scientific purposes or to enhance the propagation or survival of the wildlife species, except permits to possess legally obtained endangered species may be issued for educational purposes which enhance the survival of that species. [Eff and comp] (Auth: HRS §§183D-6, 183D-61, 195D-3, 195D-4, 195D-5, 195D-6) (Imp: HRS §§183D-6, 183D-6, 183D-61, 195D-3, 195D-4, 195D-5, 195D-6)

§13-124-13 Penalty. (a) Any person who violates any of the provisions of this subchapter shall be guilty of a misdemeanor and shall be punished as follows:

- (1) For a first offense by a fine of not less than \$250 or by imprisonment of not more than one year, or both; and
- (2) For a second or subsequent offense within five years of a previous conviction by a fine of not less than \$500 or by imprisonment of not more than one year, or both.

(b) In addition to the above penalties, except for violations under approved habitat conservation plans under section HRS 195D-21 or approved safe harbor agreements under section HRS 195D-22 as determined by the board, a fine of \$5,000 for each specimen of a threatened species and \$10,000 for each specimen of an endangered species intentionally, knowingly, or recklessly killed or removed from its original growing location, shall be levied against the convicted person.

(c) The disposition of fines collected for violations of the provisions concerning wildlife conservation shall be subject to HRS 183D-10.5.

Exhibit 3

(d) Except as otherwise provided by law, the board or its authorized representative by proper delegation is authorized to set, charge, and collect administrative fines or bring legal action to recover administrative fees and costs as documented by receipts or affidavit, including attorneys' fees and costs, or bring legal action to recover administrative fines, fees, and costs, including attorneys' fees and costs, or payment for damages or for the cost to correct damages resulting from a violation of this chapter. The administrative fines shall be as follows:

- (1) For a first violation, a fine of not more than \$2,500;
- (2) For a second violation within five years of a previous violation, a fine of not more than \$5,000; and
- (3) For a third or subsequent violation within five years of the last violation, a fine of not more than \$10,000.

(e) In addition, an administrative fine of up to \$5,000 may be levied for each specimen of wildlife or plant taken, killed, injured, or damaged in violation of this chapter.

(f) Any criminal action against a person for any violation of this chapter shall not be deemed to preclude the State from pursuing civil legal action to recover administrative fines and costs against that person. Any civil legal action against a person to recover administrative fines and costs for any violation of this chapter shall not be deemed to preclude the State from pursuing any criminal action against that person.

(g) Any equipment, article, instrument, aircraft, vehicle, vessel, business record or natural resource used or taken in violation of the provisions of this chapter may be seized and subject to forfeiture as provided by HRS section 199-7 and chapter 712A. [Eff and comp] (Auth: HRS §§195D-3, 195D-4, 195D-6, 195D-7, 195D-8, 195D-9, 199-7, 712A-4, 712A-6) (Imp: HRS §§195D-3, 195D-4, 195D-6, 195D-7, 195D-8, 195D-9, 199-7, 712A-4, 712A-6)

DEPARTMENT OF LAND AND NATURAL RESOURCES

Amendments to and compilation of chapter 124, title 13, Hawaii Administrative Rules Regulating Indigenous Wildlife, Endangered and Threatened Wildlife, Injurious Wildlife, Introduced Wild Birds, and Introduced Wildlife on the Summary Page dated _____ were adopted on _____ following public hearings held on March 27, 28, and April 1, 2, 3, 4 and 5 after public notice was given on February 17, 2013, in the Sunday editions of The Honolulu Star-Advertiser, The Garden Island, The Maui News, West Hawaii Today, and Hawaii Tribune-Herald.

They shall take effect ten days after filing with the Office of the Lieutenant Governor.

WILLIAM AILA, JR
Chairperson of the Board
Land and Natural Resources

NEIL ABERCROMBIE
Governor
State of Hawaii

Date: _____

Approved as to form

Deputy Attorney General

EXHIBIT 1 - Chapter 13-124
11/1/14

List of Species of Indigenous Wildlife in Hawaii

Note: This list is demonstrative of this category but shall not be construed as exhaustive.

SCIENTIFIC NAME	STATUS
COMMON NAME	
HAWAIIAN NAME	

* Endemic to Hawaiian Islands
 X Breeding population
 R Regular migrant
 R+ Uncommon but regular sightings
 M Regular winter migrant
 O Considered extinct

Indigenous Reptiles

Careta careta Loggerhead Sea Turtle	R+
Chelonia myda agassizi Pacific Green Sea Turtle Honu	X
Dermochelys coriacea schlegelii Pacific Leatherback Sea Turtle	X
Eretmochelys imbricate bissa Pacific Hawksbill Turtle Ea	R+
Lepidochelys olivacea Olive (Pacific) Ridley Sea Turtle	R+
Pelamis platurus Yellow-bellied Sea Snake	R+

Indigenous Invertebrates

Achatinella spp. Oahu Tree Snails	* X
--------------------------------------	-----

Exhibit 3

Indigenous Birds

Acrocephalus familiaris familiaris Laysan Millerbird	* O
Acrocephalus familiaris kingi Nihoa Millerbird	* X
Anas acuta Northern Pintail Koloa māpu	M
Anas americana American Wigeon	M
Anas clypeata Northern Shoveler Koloa mohā	M
Anas laysanensis Laysan Duck	* X
Anas platyrhynchos Mallard Duck * Note that mallards are both migratory and introduced. Status of an individual will be determined as the need arises.	M
Anas wyvilliana Hawaiian Duck Koloa maoli	* X
Anous minutus melanogenys Black (Hawaiian, White-capped) Noddy Noio	X
Anous stolidus pileatus Brown (Common) Noddy Noio-kōhā	X
Arenaria interpres Ruddy Turnstone 'Akekeke	M
Asio flammeus sandwichensis Short-eared (Hawaiian) Owl Pueo	* X
Aythya affinis Lesser Scaup	M

Exhibit 3

Branta sandvicensis Hawaiian Goose Nēnē	* X
Bulweria bulwerii Bulwer Petrel 'Ou	X
Buteo solitarius Hawaiian Hawk 'Io	* X
Calidris alba Sanderling Huna kai	M
Chaetoptila angustipluma Kioea	* O
Chasiempis ibidis Oahu 'Elepaio 'Elepaio	* X
Chasiempis sandwichensis Hawaii 'Elepaio 'Elepaio	* X
Chasiempis sclateri Kauai 'Elepaio 'Elepaio	* X
Chloridops kona Kona (Grosbeak) Finch	* O
Ciridops anna 'Ula-'ai-hāwane	* O
Corvus hawaiiensis Hawaiian Crow 'Alalā	* X
Diomedea immutabilis Laysan Albatross Mōlī	X
Diomedea nigripes Black footed Albatross Ka'upu	X
Drepanis funerea Black Mamo Hoa or Oo-nuku-umu	* O
Drepanis pacifica Hawaii Mamo	* O

Exhibit 3

Mamo	
Fregata minor palmerstoni Great Frigatebird 'Iwa	X
Fulica alai American (Hawaiian) Coot 'Alae ke'oke'o	* X
Gallinula chloropus sandvicensis Common Moorhen (Hawaiian Gallinule) 'Alae 'ula	* X
Gygis alba rothschildi White (Fairy) Tern Manu o ku	X
Hemignathus lanaiensis Lanai Akialoa 'Akialoa	* O
Hemignathus ellisianus Oahu 'Akialoa 'Akialoa	* O
Hemignathus flavus Oahu 'Amakihi 'Amakihi	* X
Hemignathus kauaiensis Kauai 'Amakihi 'Amakihi	* X
Hemignathus lucidus affinus Maui Nuku pu'u Nuku pu'u	* X
Hemignathus lucidus hanapepe Kauai Nuku pu'u Nuku pu'u	* X
Hemignathus lucidus lucidus Oahu Nuku pu'u Nuku pu'u	* O
Hemignathus munroi 'Akiapōlā'au	* X
Hemignathus obscurus Hawaii 'Akialoa 'Akialoa	* O
Hemignathus parvus 'Anianiau (Lesser 'Amakihi)	* X

Exhibit 3

'Anianiau	
Hemignathus sagittirostris Greater 'Amakihi	* O
Hemignathus stejnegeri Kauai 'Akialoa 'Akialoa	* X
Hemignathus virens virens Hawaii 'Amakihi 'Amakihi	* X
Hemignathus virens wilsoni Maui 'Amakihi 'Amakihi	* X
Heteroscelus incanus Wandering Tattler 'Ūlili	M
Himantopus mexicanus knudseni Black-necked (Hawaiian) Stilt Āe'o	* X
Himatione sanguinea 'Apapane	* X
Himatione sanguinea freethii Laysan Honeycreeper	* O
Loxioides bailleui Palila	* X
Loxops caeruleirostris Kauai 'Ākepa 'Akeke'e	* X
Loxops coccineus coccineus Hawaii 'Ākepa 'Akepeu'ie	* X
Loxops coccineus ochraceus Maui 'Ākepa 'Akepeu'ie	* X
Loxops coccineus rufus Oahu 'Ākepa 'Akepeu'ie	* O
Loxops mana Hawaii Creeper	* X
Melamprosops phaeosoma Po'ouli	* X
Moho apicalis	* O

Exhibit 3

Oahu 'Ō'ō 'Ō'ō	
Moho bishopi Molokai 'Ō'ō 'Ō'ō	* O
Moho braccatus Kauai 'Ō'ō 'Ō'ō'a'a	* X
Moho nobilis Hawaii 'Ō'ō 'Ō'ō	* O
Myadestes lanaiensis lanaiensis Lanai Thrush Oloma'o	* O
Myadestes lanaiensis rutha Molokai Thrush Oloma'o	* X
Myadestes myadestinus Kauai Thrush Kāma'o	* X
Myadestes oahuensis Oahu Thrush 'Amaui	* O
Myadestes obscurus Hawaii Thrush 'Oma'o	* X
Myadestes palmeri Small Kauai Thrush Puaiohi	* X
Numenius tahitiensis Bristle-thighed Curlew Kioea	M
Nycticorax nycticorax hoactli Black-crowned Night-heron 'Auku'u	X
Oceadroma castro cryptoleucura Band-rumped (Hawaiian, Harcourt) Storm- petrel 'Ake'ake	* X
Oceandroma tristrami Sooty (Tristram's) Storm-petrel	X

Exhibit 3

Oreomystis bairdi Kauai Creeper 'Akikiki	* X
Palmeria dolei Crested Honeycreeper 'Ākohekohe	* X
Paroreomyza flammea Molokai Creeper Kakawahie	* X
Paroreomyza maculata Oahu Creeper 'Alauwahio	* X
Paroreomyza montana montana Lanai Creeper 'Alauwahio	* O
Paroreomyza montana newtoni Maui Creeper 'Alauwahio	* X
Phaethon lepturus dorotheae White-tailed Tropicbird Koa'e kea	X
Phaethon rubricuada rothschildi Red-tailed Tropicbird Koa'e 'ula	X
Pluvialis dominica Lesser (Pacific, American) Golden Plover Kōlea	M
Pluvialis squatarola Black-bellied Plover	M
Porzana palmeri Laysan Rail	* O
Porzana sandwichensis Hawaiian Rail Moho	* O
Procelsterna cerulea saxatilis Blue-gray Noddy	X
Pseudonestor xanthophrys Maui Parrotbill	* X
Psittirostra psittacea 'Ō'ū	* X
Pterodroma hypoleuca hypoleuca	X

Exhibit 3

Bonin Petrel	
Pterodroma sandwichensis Hawaiian Petrel 'Ua'u	* X
Puffinus nativitatis Christmas Shearwater	X
Puffinus newelli Newell's Shearwater 'A'o	* X
Puffinus pacificus chlororhynchus Wedge-tailed Shearwater 'Ua'u kani	X
Rhodacanthis flaviceps Lesser Koa Finch	* O
Rhodacanthis palmeri Greater Koa Finch Hopue	* O
Sterna fuscata oahuensis Sooty tern 'Ewa'ewa	X
Sterna lunata Gray-backed Tern Pakalakala	X
Sula dactylatra personata Masked (Blue-faced) Booby 'Ā	X
Sula leucogaster plotus Brown Booby 'Ā	X
Sula sula rubripes Red-footed Booby 'Ā	X
Telespiza cantans Laysan Finch	* X
Telespiza ultima Nihoa Finch	* X
Vestiaria coccinea 'I'iwi	* X

Exhibit 3

SCIENTIFIC NAME
COMMON NAME
HAWAIIAN NAME

STATUS

* Endemic to Hawaiian Islands
X Breeding population
R Regular migrant
R+ Uncommon but regular sightings
M Regular winter migrant
O Considered extinct

Indigenous Mammals

Balaenoptera acutorostrata Minke Whale	M
Balaenoptera physalus Fin Whale	R+
Feresa attenuata Pygmy Killer Whale	R
Globicephala macrorhynchus Pilot Whale	R
Kogia breviceps Pygmy Sperm Whale	R+
Lasiurus cinereus semotus Hawaiian (Hoary) Bat 'Ope'ape'a	* X
Megaptera novaengliae Humpback Whale Koholā	M
Mesoplodon densirostris Densebeaked Whale	R+
Monachus schauinslandi Hawaiian Monk Seal 'Īlio-holo-i-kauaua	* X
Orcinus orca Killer Whale	R+
Peponocephala electra Melon-headed Whale	R
Physeter catodon Sperm Whale	M

Exhibit 3

Palaoa, Koholā kepama	
Pseudorca crassidens False Killer Whale	R
Stenella attenuate Spotted Dolphin Nai'a	X
Stenella coeruleoalba Striped Dolphin	R+
Stenella longirostris Spinner Dolphin Nai'a	X
Steno bredanensis Rough-toothed Dolphin Nai'a	X
Tursiops gilli Pacific Bottlenose Dolphin Nai'a	X

Exhibit 3

EXHIBIT 2 - Chapter 13-124
11/1/14

List of Species of Endangered Wildlife in Hawaii

SCIENTIFIC NAME
COMMON NAME
HAWAIIAN NAME

PORTION OF RANGE
WHERE ENDANGERED

Endangered Birds

Acrocephalus familiaris kingi Nihoa Millerbird	Entire
Anas laysanensis Laysan Duck	Entire
Anas wyvilliana Hawaiian Duck Koloha-maoli	Entire
Asio flammeus sandwichensis Short-eared (Hawaiian) Owl Pueo	Oahu
Branta sandvicensis Hawaiian Goose Nēnē	Entire
Buteo solitarius Hawaiian Hawk 'Io	Entire
Chasiempis ibidis Oahu Elepaio	Entire
Corvus hawaiiensis Hawaiian Crow 'Alalā	Entire
Fulica alai Hawaiian Coot 'Alae ke'oke'o	Entire
Gallinula chloropus sandvicensis Common Moorhen (Hawaiian Gallinule)	Entire

Exhibit 3

'Alae'ula	
Hemignathus lucidus affinis Maui Nuku pu'u Nuku pu'u	Entire
Hemignathus lucidus hanapepe Kauai Nuku pu'u Nuku pu'u	Entire
Hemignathus munroi 'Akiapōlā'au 'Akiapōlā'au	Entire
Hemignathus stejnegeri Kauai 'Akialoa 'Akialoa	Entire
Hemignathus virens wilsoni Maui 'Amakihi 'Amakihi	Lanai
Himantopus mexicanus knudseni Black-necked (Hawaiian) Stilt Āe'o	Entire
Loxioides bailleui Palila Palila	Entire
Loxops caeruleirostris Kauai Akepa Akekee	Entire
Loxops coccineus coccineus Hawaii 'Akēpa 'Akepeu'ie	Entire
Loxops coccineus ochraceus Maui 'Akēpa 'Akepeu'ie	Entire
Melamprosops phaeosoma Po'ouli Po'ouli	Entire
Moho braccatus Kauai 'Ō'ō 'Ō'ō 'a'a	Entire
Myadestes lanaiensis rutha	Entire

Exhibit 3

Molokai Thrush Oloma'o	
Myadestes myadestinus Kauai Thrush Kāma'o	Entire
Myadestes palmeri Small Kauai Thrush Puaiohi	Entire
Oceanodroma castro Band-rumped Storm-petrel 'Ake'ake	Entire
Oreomystis bairdi Kauai Creeper Akikiki	Entire
Loxops mana Hawaii Creeper	Entire
Palmeria dolei Crested Honeycreeper 'Ākohekohe	Entire
Paroreomyza flammea Molokai Creeper Kakawahie	Entire
Paroreomyza maculata Oahu Creeper 'Alauahio	Entire
Phoebastria albatrus Short-tailed Albatross	Entire
Pseudonestor xanthophrys Maui Parrotbill	Entire
Psittirostra psittacea 'Ō'ū 'Ō'ū	Entire
Pterodroma sandwichensis Hawaiian Petrel 'Ua'u	Entire
Telespiza cantans Laysan Finch	Entire
Telespiza ultima Nihoa Finch	Entire
Vestiaria coccinea	Oahu, Lanai, Molokai

Exhibit 3

'I'iwi	
'I'iwi	

Endangered Mammals

Balaenoptera physalus Fin Whale	Entire
Lasiurus cinereus semotus Hawaiian (Hoary) Bat 'Ōpe'ape'a	Entire
Megaptera novaeangliae Humpback Whale Koholā	Entire
Monachus schauinslandi Hawaiian Seal 'Īlio holo I kauaua	Entire
Physeter catodon Sperm Whale Palaoa, Koholā kepama	Entire
Pseudorca crassidens False Killer Whale	Entire

Endangered Reptiles

Dermochelys coriacea schlegelii Pacific Leatherback Sea Turtle	Entire
Eretmochelys imbricata bissa Pacific Hawksbill Sea Turtle Ea	Entire

Endangered Invertebrates

Achatinella spp. Oahu (Achatinella) Tree Snails	Entire
Adelocosa anops Kauai cave spider Pe'e pe'e maka'ole	Entire
Drosophila aglaia	Entire
Drosophila differens	Entire
Drosophila digressa Hawaiian picture-wing fly	Entire

Exhibit 3

Drosophila hemipeza	Entire
Drosophila heteroneura	Entire
Drosophila montgomeryi	Entire
Drosophila musaphilia	Entire
Drosophila neoclavisetae	Entire
Drosophila obatai	Entire
Drosophila ochrobasis	Entire
Drosophila sharpi	Entire
Hawaiian picture-wing fly	
Drosophila substenoptera	Entire
Drosophila tarphytrichia	Entire
Manduca blackburni	Entire
Blackburn's sphinx moth	
Megalagrion leptodemas	Entire
Crimson Hawaiian Damselfly	
Megalagrion nesiotes	Entire
Flying Earwig Hawaiian Damselfly	
Megalagrion nigrohamatum	Entire
nigrolineatum	
Blackline Hawaiian Damselfly	
Megalagrion oceanicum	Entire
Oceanic Hawaiian Damselfly	
Megalagrion pacificum	Entire
Pacific Hawaiian Damselfly	
Newcombia cumingi	Entire
Newcomb's tree snail	
Partulina semicarinata	Entire
Lanai tree snail	
Partulina variabilis	Entire
Lanai tree snail	
Spelaeorchestria koloana	Entire
Kauai Cave Amphipod	
Vetericaris chaceorum	Entire
Anchialine pool shrimp	

Exhibit 3

EXHIBIT 3 - Chapter 13-124
11/1/14

List of Species of Threatened Wildlife in Hawaii

Note: This list is demonstrative of this category but shall not be construed as exhaustive.

SCIENTIFIC NAME
COMMON NAME
HAWAIIAN NAME

PORTION OF RANGE
WHERE THREATENED

Threatened Birds

Gygis alba White Tern Manu o ku	Oahu
Puffinus newelli Newell's Shearwater 'A'o	Entire

Threatened Reptiles

Chelonia mydas agassizi Pacific Green Sea Turtle Honu	Entire
Lepidochelys olivacea Olive (Pacific) Ridley Sea Turtle	Entire
Threatened Reptiles Careta careta Loggerhead Sea Turtle	Entire

Threatened Invertebrates

Erinna newcombi Newcomb's snail	Entire
Drosophila mulli	Entire

EXHIBIT 4 - Chapter 13-124
11/1/14

**Introduced Wild Birds Other than Game Birds Which Have
 Become Established in the Wild**

Note: This list is demonstrative of this category but shall not be construed as exhaustive.

SCIENTIFIC NAME

COMMON NAME

ALAUDIDAE	LARKS
<i>Alauda arvensis</i>	Eurasian Skylark
ANATIDAE	GEESE, DUCKS
<i>Anas platyrhynchos</i> * Note that mallards are both migratory and introduced. Status of an individual will be determined as the need arises.	Mallard
ARDEIDAE	HERONS
<i>Bubulcus ibis</i>	Cattle egret
CARDINALIDAE	TANAGERS, GROSBEAKS, ETC.
<i>Cardinalis cardinalis</i>	Northern Cardinal, North American or Kentucky Cardinal
COLUMBIDAE	DOVES
<i>Columba livia</i>	Rock Dove, Common Pigeon, Domestic Pigeon
CETTIDAE, MUSCICAPIDAE & TIMALIIDAE	BUSH-WARBLERS, THRUSHES, ETC
<i>Cettia diphone</i>	Japanese Bush-Warbler, Uguisu
<i>Copsychus malabaricus</i>	White-rumped Shama, Shama Thursh

Exhibit 3

Garrulax pectoralis	Greater Necklaced Laughing-thrush
Garrulax caerulatus	Gray-sided Laughing-thrush
Garrulax canorus	Melodius Laughing-thrush, Chinese Thrush, Hwamei
Leiothrix lutea	Red-billed Leiothrix, Pekin Nightingale, Japanese Hill-robin

ESTRILDIDAE	WAXBILLS, MANNIKINS
Uraeginthus bengalus	Red-cheeked Cordonbleu
Etrilda caerulescens	Lavender Waxbill
Estrilda melpoda	Orange-cheeked Waxbill
Estrilda troglodytes	Black-rumped Waxbill, Red-eared Waxbill
Estrilda astrild	Common Waxbill
Amandava amandava	Red Avadavat, Strawberry Finch, Red Munia
Lonchura cantans	African Silverbill
Lonchura punctulata	Nutmeg Mannikin, Ricebird, Spotted Munia
Lonchura malacca	Chestnut Munia or Mannikin, Black-headed Mannikin or Munia
Padda oryzivora	Java Sparrow

EMBERIZIDAE	SPARROWS, ETC.
Tiaris olivaceus	Yellow-faced Grassquit
Sicalis flaveola	Saffron Finch

FRINGILLIDAE	FINCHES
Haemorhous mexicanus	House Finch, Linnet
Serinus mozambicus	Yellow-fronted Canary, Green Singing-Finch
Serinus canaria	Island Canary, Common Canary

Exhibit 3

ICTERIDAE	MEADOWLARKS, ETC.
<i>Sternella neglecta</i>	Western Meadowlark
MIMIDAE	MOCKINGBIRDS
<i>Mimus polyglottos</i>	Northern Mockingbird
PASSERIDAE	OLD WORLD SPARROWS
<i>Passer domesticus</i>	House Sparrow, English Sparrow
PSITTACIDAE	PARAKEETS
<i>Psittacula krameri</i>	Rose-ringed Parakeet
<i>Amazona viridigenalis</i>	Red-crowned Amazon
<i>Aratinga mitrata</i>	Mitred Conure
<i>Aratinga erythrogenys</i>	Red-masked Conure
PYCNONOTIDAE	BULBULS
<i>Pycnonotus cafer</i>	Red-vented Bulbul
<i>Pycnonotus jocosus</i>	Red-whiskered Bulbul
STURNIDAE	STARLINGS, MYNAS
<i>Acridotheres tristis</i>	Common myna
THRAUPIDAE	CARDINALS, ETC.
<i>Paroaria coronata</i>	Red-crested Cardinal, Brazilian Cardinal
<i>Paroaria capitata</i>	Yellow-billed Cardinal
TYTONIDAE	BARN OWLS
<i>Tyto alba</i>	Barn Owl
ZOSTEROPIDAE	WHITE-EYES
<i>Zosterops japonicus</i>	Japanese White-eye, Mejiro

Exhibit 3

EXHIBIT 5 - Chapter 13-124
11/1/14

List of Species of Injurious Wildlife in Hawaii

SCIENTIFIC NAME

COMMON NAME

BIRDS

Bubulcus ibis	Cattle egret
All species in the family CETTIIDAE and associated allies	Warblers
All species in the family COLUMBIDAE. Except the domesticated races of pigeons listed in HAR section 4-71-2, Columba domestica and Columba livia	Doves and pigeons
Lonchura malacca	Mannikin or Munia, Black-headed (Chestnut Mannikin)
All species in the family MUSCICAPIDAE	Old World Flycatchers
Padda oryzivora	Sparrow, Java (Java Rice Finch)
All species in the family PSITTACIDAE	Parrots
All species in the family PYCNONOTIDAE	Bulbuls
All species in the family STURNIDAE	Starlings
All species in the family TIMALIIDAE	Old World Babbblers
Tyto alba	Barn Owl
All species in the family ZOSTEROPIDAE	White eyes

AMPHIBIANS/REPTILES

All species in Family Agamidae	Agamid Lizards
--------------------------------	----------------

Exhibit 3

All species in Family Anguidae	Anguid Lizards
All species in the genus Anolis	Lizards, Anole
All species in the Order Anura	Frogs
All species in the Family Chamaeleonidae	Chameleons
Gekko gekko	Gecko, Tokay
All species in the Family Iguanidae	Iguana, Green
All species in the genus Phelsuma	Gecko, Day
All Species in Family Scincidae	Skinks
All species in the suborder Serpentes, except Ramphotyphlops braminus and Pelamis platurus	All snakes
All species in Family Teiidae	Whiptails and Tegus
All species in the Order Testudines	All freshwater turtles and tortoises
All species in the subfamily VARANOIDEA	Monitor lizards and Gila monsters

INVERTEBRATES

Achatina fulica	Snail, Giant African
Aethina tumida	Small hive beetle
Apis cerana	Asian honeybee
Apis mellifera scutellata	Africanized honeybee
Corbicula fluminea	Clam, Asiatic
Darna pallivitta	Nettle caterpillar

Exhibit 3

Euglandina rosea	Snail, Cannibal
Gonaxis kibweziensis	(no common name)
Helix aspersa	Snail, European brown
Hypothenemus hampei	Coffee berry borer
Oryctes rhinoceros	Coconut Rhinoceros Beetle
All species in the genera: Pomacea, Pila, and Cipangopaludina	Snails, Apple
Solenopsis invicta	Red imported fire ant
Wasmannia auropunctata	Little fire ant
Varroa destructor	Varroa mite

MAMMALS

Small Indian Mongoose	Herpestes javanicus
Even-toed ungulates, except for game mammals identified pursuant to chapter 123	All species in the order ARTIODACTYLA (with paraxonic feet)